

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/CV/18/0692

Re: Property at 15 Gorse Park, Ayr, KA7 3XW ("the Property")

Parties:

Miss Emily Hamilton, Mr James Hamilton, 14 Shanter Wynd, Ayr, KA7 4RS; 14 Shanter Wynd, Alloway, Ayrshire, KA7 4RS ("the Applicants")

Miss Stefany Lawrie, Mr Justin Taylor, 39 Thistle Walk, Kincaidston, Ayr, KA7 3XH; 2 Kayshill Cottage, Little Mill Road, Drongan, KA6 7EN ("the Respondents")

Tribunal Members:

Lesley Dowdalls (Legal Member) and Gordon Laurie (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the case required to be adjourned to a later date as the Respondents had not received notification of today's hearing.

The Applicants were in attendance today. The Respondents were absent.

A Case Management Discussion took place on 31st May 2018. At that time the Respondent, Ms Lawrie, had attended with a young child and was unable to come in to the hearing. She had indicated then that she wished to participate at a full hearing.

A full hearing fixed for 7th August 2018 (in respect of which the Respondents had received Sheriff Officer intimation dated 9th July 2018) required to be adjourned on the motion of the Applicants.

Notification of today's hearing was attempted by Recorded Delivery through the Post Office Track and Trace service. However, today the tribunal became aware that the intimation had not been successfully served. In respect of Ms Lawrie the system recorded that the delivery was "pending", an attempt at

service having been unsuccessful on 3rd October as no one was in the property to receive the letter. In respect of intimation to Mr Taylor it was recorded on the Post Office system as "unable to confirm the status of the item".

Accordingly, the tribunal had no evidence that the Respondents were aware of today's hearing.

In the circumstances, to ensure fairness to the parties, the tribunal adjourned today's hearing to allow intimation of a later date by way of service by Sheriff Officers. A further full hearing will take place on 5th December 2018 at 10am within today's venue, Russell House, Ayr.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

L Dowdalls

Legal Member/Chair

23rd October 2018

Date