

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber)

**Decision by the Tribunal
In an Application under section 46 of the Tribunals (Scotland) Act**

Chamber Ref: FTS/HPC/CV/22/1256

Re: Property at 29D Hardgate, Haddington, EH41 3JS (“the Property”)

Parties:

Mr Christopher James Reith, Mrs Mami Reith, 18 Barnes Green, Livingston, West Lothian, EH54 8PP (“the Applicants”)

Mr Martin James Ellis, Miss Samantha Perkins, 29D Hardgate, Haddington, EH41 3JS (“the Respondents”)

Tribunal Members:

John McHugh (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) refuses to allow the First Respondent permission to appeal its Decision of 22 November 2022.

Reasons for Decision

History

On 22 November 2022 the Tribunal made a Decision that the Respondents should be jointly and severally ordered to pay the sum of £3240 to the Applicant, such sum being unpaid rent due under a tenancy agreement. In the case of the First Respondent, who had made a time to pay application, the order was for him to make payment at the rate of £200/month.

On 22 December 2022, the First Respondent submitted a request for permission to appeal against the Decision of 22 November 2022.

Basis of Proposed Appeal

The First Respondent's email to the Tribunal setting out the basis of his proposed appeal was as follows:

"I am not sure how to go about this however I disagree and wish to appeal this. The agreement proposed on my behalf was with the intention that I would remain in the property. This however is not the case. This all came about due to the landlord not abiding by his contractual agreement set in the lease. I should not be expected to pay any amount requested certainly not the full amount when the premises was not kept to the livable state required by the lease. I was supposed to have a fully working oven..I had one in which I had to stick my head onto the oven to light it.the feed on the gas was not the best and kept on spluttering and throwing small flames as was trying to ignite it. This was known by landlord and estate agent for the whole of the time and nothing was ever done. I had no running water in bathroom sink they sent a plumber and left the bathroom incomplete resulting in mould growth again both landlord and agent were made aware and nothing done, this was for over 3 years this is a danger to my health. A living room door which was hanging off its hinges for the entirety of my residence again both landlord and agent knew and nothing done. Upstairs neighbours had a flood resulting in damage to property and my personal belongings this was over 2 years ago I requested insurance information.. again both landlord and agen knew and nothing done leaving me with lost property and out of pocket yet again.there are also reports from multiple property inspections stating all these and more and yet nothing done.there is also atleast 1 report from the gas safety check stating the boiler and outdated gas fire is unsafe and condemned or should be yet they were both reinstated? These are the reasons why no full rent was paid.mutltiple countless emails and conversations between myself and the agent stating these conditions unsafe and unfit for humans with no response whatsoever. These are the reasons I am challenging this decision and asking for it to be looked at again and reconsidered. Nobody should ever be expected to pay anything let alone full rental payments for a live in an unfit and unsafe environment."

An appeal is available only (in terms of section 46(2) of the 2014 Act) on a point of law. Section 46(3) of the Act further provides that permission may only be given if the Tribunal is "satisfied that there are arguable grounds for the appeal".

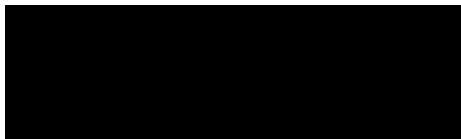
The basis of the application for permission to appeal seems to be, firstly, that the time to pay application had been made by the First Respondent on the understanding that he would remain in occupation of the Property. No such condition was, or could have been competently, attached to his time to pay application. The second basis is the alleged deficiencies in the condition of the Property. These are purely factual matters which were not raised before the Tribunal. The Tribunal considers that no arguable grounds of appeal exist. It is not clear what error of law the Tribunal is said to have fallen into in considering the facts. No point of law has been identified.

Decision

The Tribunal refuses permission to appeal the Decision.

Appeals

In terms of section 46(3)(b) of the 2014 Act, where the First-tier Tribunal refuses permission to appeal, an application for such permission may be made to the Upper Tribunal.



Signed

Date 31 December 2022

JOHN M MCHUGH

Chairing Member