



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) Act 2016

Chamber Ref: FTS/HPC/EV/22/3111

Re: Property at 56 Vancouver Avenue, Howden, Livingston, EH54 6BS (“the Property”)

Parties:

Mr George McNee, 38 Queen Street, Glasgow, G1 3DX (“the Applicant”)

Mr Leigh Lamb, 56 Vancouver Avenue, Howden, Livingston, EH54 6BS (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of both parties)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that in the absence of both parties the application be rejected as being frivolous or in terms of Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017("the Regulations").

Background

1. By application dated 26 August 2022 the Applicant applied to the Tribunal for an order for eviction. The Application was accepted by the Tribunal on 11 November 2022.
2. On 14 December 2022 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 4 January 2023. By letters dated 14 December 2022, the Tribunal advised both parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 14 February 2023 at 10am. The Respondent did not make any representations by 4 January 2023.
3. The Tribunal proceeded with the Case Management Discussion on 14 February 2023. There was no appearance by or on behalf of either the Applicant or the Respondent. After consideration the Tribunal rejected the application (“the decision”).

4. On 14 March 2023, the Applicant requested the Tribunal recall the decision explaining his failure to appear at the CMD was due to difficulties with his email account. After consideration the Tribunal recalled the decision.

5. A CMD was assigned to proceed on 25 July 2023. The Applicant appeared on his own behalf. There was no appearance by or on behalf of the Respondent. The Tribunal was not satisfied the Respondent had received notification of the CMD. The Recorded Delivery notification advising her of the CMD had been returned stating that she was no longer at the address. In the circumstances the Tribunal had no option but to discharge the CMD and assign a new CMD.

Case Management Discussion

6. A CMD was assigned to proceed on 14 September 2023 at 10 am. There was no appearance by or on behalf of either the Applicant or the Respondent.

7. The Tribunal noted the terms of the letters to the both parties dated 15 August 2023 that the Case Management Discussion would proceed on 14 September 2023 at 10 am. The Tribunal also noted that both parties were advised in the letters that the Tribunal could do anything at the Case Management Discussion which it could do at a hearing including making a decision on the application. The Tribunal further noted that parties were both advised that if they did not attend the Case Management Discussion this would not stop a decision or order being made by the Tribunal. The Tribunal was satisfied that both parties were aware that the Case Management Discussion would proceed on 14 September 2023.

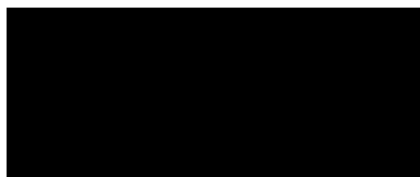
8. The Tribunal, in the absence of the Applicant and the Respondent, had no information before it to determine whether there was a ground to evict and whether it was reasonable to do so.

Decision

9. The Tribunal rejected the application as being frivolous in terms of Rule 8 (1) of the Regulations.

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.



14 September 2023

Legal Chair

Date