



Decision with Statement of Reasons in terms of Rule 27 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure (contained in Schedule Part 1 of the Chamber Procedure Regulations 2017 (SSI No 328), as amended) (“the Procedure Rules”) in relation to an application made under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/22/1715

Re: Property at 22G Highholm Street, Port Glasgow, PA14 5HL (“the Property”)

Parties:

Mr Chap Yew Cheng, 41 Windsor Drive, Solihull, B92 8HS (“the Applicant”)

Ms Elizabeth Miller, 22G Highholm Street, Port Glasgow, PA14 5HL (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member); Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) dismissed the application in terms of Rule 27 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”)

Background

1. The Applicant submitted an application under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order for payment in respect of rent arrears said to have been incurred by the Respondent.
2. By decision dated 30 September 2022, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion.
3. A case management discussion (CMD) was assigned for 3 November 2022. The Tribunal instructed sheriff officers to serve a copy of the application on the

Respondent. On 5 October 2022, sheriff officers reported that they were unable to serve the application and that the property appeared to be empty. Sheriff officers made contact with a member of staff within the office of the Applicant's representative and was advised that the property was vacant and the property was believed to have been sold.

4. The Tribunal administration contacted the Applicant's representative by email on 17 October and asked whether the application was being insisted upon, in light of the information from sheriff officers. The Tribunal asked whether an alternative address for the Respondent was known. The Tribunal issued a reminder email on 19 October and made telephone contact on 24 October to find out whether the Applicant wished to continue with the application. The Tribunal administration was advised that the Applicant's representative would call back to advise.
5. On 25 October 2022, the Tribunal cancelled the CMD assigned for 3 November 2022. The Tribunal did not receive any response to the emails of 17 and 19 October, nor any telephone call following 24 October. A further email was issued to the Applicant's representative on 26 October requesting a response. The Tribunal administration sent a final email to the Applicant's representative on 3 November 2022, noting that no response had been received to earlier emails. In that email, the Applicant's representation was advised that in light of the information provided by sheriff officers, the Tribunal cannot deal fairly and justly with the application in the absence of cooperation. The Tribunal requested a response to outstanding queries within 14 days and was advised that if no response was received, the Tribunal may dismiss the application.
6. The Tribunal did not receive a response from the Applicant's representative.

Reasons for Decision

7. Rule 27 provides:-

(1) The First-tier Tribunal must dismiss the whole or a part of the proceedings if the First-tier Tribunal does not have jurisdiction in relation to the proceedings or that part of them.

(2) The First-tier Tribunal may dismiss the whole or part of the proceedings if the applicant has failed to—

(a) comply with an order which stated that failure by the applicant to comply with the order could lead to the dismissal of the proceedings or part of them;

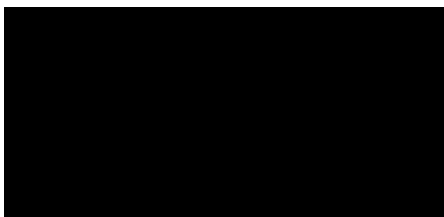
or

(b)co-operate with the First-tier Tribunal to such an extent that the First-tier Tribunal cannot deal with the proceedings justly and fairly.

8. The Tribunal made contact with the Applicant's representative several times and did not receive a response. As a consequence, the First-tier Tribunal was unable to deal with the proceedings justly and fairly. In the absence of a response by or on behalf of the Applicant, the Tribunal dismissed the application.

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.



Legal Member/Chair

22 November 2022
Date