

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under rule 30 of the First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Rules”)

Chamber Ref: FTS/HPC/CV/22/2184

Re: Property at 5 Springfield Place, Aberdeen, AB15 7SF (“the Property”)

Parties:

Mr Pruthvi Gowda, 97 Laleham Road, Staines Upon Thames, Surrey, TW18 2EB (“the Applicant”)

Mrs Uliana Petrenko, Mr Pawel Czarnecki, 66 Balgownie Court, Aberdeen, AB24 1XF; 66 Balgownie Court, Aberdeen, AB24 1XF (“the Respondents”)

Tribunal Members:

Graham Harding (Legal Member)

Background

1. Following a Case Management Discussion (“CMD”) held by teleconference on 24 February 2023 which the Respondents did not attend the Tribunal by its decision of the same date granted an order for the eviction of the Respondent from the property.
2. By correspondence dated 1 March 2023 Mrs Petrenko on behalf of both Respondents submitted an application to the Tribunal for the recall of the Tribunal’s decision of 24 February 2023. Mrs Petrenko submitted that Mr Czarnecki had been admitted to hospital on 23 February 2023 on mental health grounds and will remain there for some months. She also submitted that she had been unable to attend the CMD as she had no one to look after her children.
3. Mrs Petrenko submitted that as the Tribunal had made its decision in the absence of the Respondents, she would like an opportunity to put forward the Respondent’s submissions.
4. The application was made within the 14-day period provided for in terms of Rule 30(4) of the 2017 Rules and was timeous.

5. It appeared to the Tribunal that the interests of justice would be best served if the Respondents were given an opportunity to be heard and put forward their submissions with regards to any defence before the Tribunal decided whether to grant application for recall or not. The Tribunal therefore assigned a CMD to take place by teleconference on 31 May 2023.
6. The Respondent, Mrs Petrenko, was in email communication with the Tribunal administration prior to the CMD but did not submit any written reasons for not paying the rent claimed by the Applicant.

The Case Management Discussion

7. A CMD was held by teleconference on 31 May 2023. The Applicant attended in person. The Respondents did not attend nor were they represented. The Tribunal delayed the start of the CMD for ten minutes to give the Respondents additional time to attend but they did not. The Tribunal being satisfied that the Respondents had been given proper intimation of the date and time of the CMD determined to proceed in their absence.
8. The Applicant advised the Tribunal that the Respondents were not in communication with him and that the sum claimed remained the same.
9. The Tribunal noted that despite being given an opportunity to attend the CMD and to submit written representations the Respondents had done neither. The Tribunal therefore had no information before it as to any defence the Respondents may have had to the Applicant's claim.

Reasons for Decision

10. The Respondents have failed to provide the Tribunal with any written representations and have failed to attend the CMD. The Tribunal therefore has no information before it that would justify a recall of its decision of 24 February 2023.

Decision

11. The Respondents' application for recall of the Tribunal's decision of 24 February 2023 is refused.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014 a party aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Graham Harding

Legal Member

Date: 31 May 2023