



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

Reference number: FTS/HPC/CV/20/0739

Application dismissed on 22 September 2020 in absence of the applicant.

Property: 4/1, 25 Trefoil Avenue, Glasgow, G41 3PB (“The Property”)

Parties:

Mr Johar Mirza, 4/1, 25 Trefoil Ave, Glasgow, G41 3PB (“the Applicant”)

and

Ms Anne Duffy, c/o The Property Bureau, Melville House, 70 Drymen Road, Bearsden, Glasgow, G61 2RH (“the Respondent”)

Tribunal Member:

Paul Doyle (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) dismisses the application.

Background

1. By application dated 22 February 2020 the applicant seeks a payment order, and an order for delivery of documents against the respondent. The applicant produces a copy residential tenancy agreement, and an exchange of emails in support of the application.
2. After a case management discussion on 12 August 2020 the applicant was directed to lodge a written submissions setting out the legal basis of his application. The respondent was directed to lodge a written response.
3. On 15 September 2020 the respondent’s solicitors lodged detailed answers to the application. The applicant has not lodged any further written submissions.

The Hearing

4. A hearing took place by telephone conference at 2.00pm on 22 September 2020. The applicant was neither present nor represented. The respondent was represented by Ms L Cameron, solicitor. The hearing was delayed until 2.10pm to allow sufficient time for the applicant to participate, but there was no appearance by or on behalf of the applicant.

5. At the case management discussion on 12 August 2020, my colleague recorded that the appellant's application is in four parts

(i) an application for a payment order of £1000, because it is said that the respondent failed to carry out gas safety of electrical installation checks of the property during the tenancy

(ii) an order for payment of compensation at the rate of £200 per month from 5 March 2019 because it is said that the respondent did not attend to repairs to a hot water system

(iii) an order for payment of £2000 because it is said that the respondent exercised unauthorised access to the property.

(iv) an order requiring the respondent to provide the applicant with copies of all inspection reports relating to the property.

6. At paragraph 7 of the case management discussion note dated 12 August 2020, my colleague made it clear that what is lacking in this application is specification of the legal basis for the applicant's claims

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a private residential tenancy Agreement for the Property dated 11 December 2017. The respondent took entry to the property on the same day.

2. A gas safety inspection was carried out on 13 June 2017. The next gas safety inspection should have taken place on 13 June 2018 but was not carried out until 25 March 2019.

3. The respondent served a notice to leave on the applicant on 29 March 2018, bringing the lease to an end on 3 May 2018. The respondent intended to sell the property and believed that the property would not have a tenant in June 2018, however, the appellant did not leave the property on 3 May 2018. It was not until

March 2019 that the respondent realised that the gas safety certificate had not been renewed. A gas safety inspection was carried out on 25 March 2019.

4. The applicant did not suffer any loss as a result of the delay in obtaining the gas safety certificate.

5. When the tenancy began on 11 December 2019, there was a valid electrical installation condition report dated 31 October 2017. The property had been let to another tenant who vacated the property on 2 December 2017. Some of the former tenant's electrical appliances remained in the property and, as a result, five portable electrical appliances were not PAT tested

6. No loss was caused to the applicant by the inadequacy of PAT testing. All of the electrical appliances have now been PAT tested.

7. The applicant complained to the respondent's letting agent about an inadequacy of water pressure on the property. The applicant's letting agent investigated the applicant's complaint. The applicant has not made a complaint under the Housing (Scotland) Act 2006. There remains an area of dispute between the parties about the quality of the hot water supply to the property, but the applicant has not suffered loss caused by any perceived defects in the hot water system.

8. The applicant does not specify when the respondent either took or attempted to take unauthorised access to the property. Even if the respondent did take unauthorised access to the property. The applicant cannot establish that he suffered a loss as a result of the actions of the respondent.

9. There is no obligation on the respondent to produce copies of property inspection reports to the applicant

10. There is no legal basis for the remedy sought by the applicant. The applicant fails to establish a basis in law for any of the four heads of claim and fails to quantify the first three heads of claim.

11. The application is fundamentally flawed because the applicant seeks a remedy for which there is no legal basis.

12. Notice of today's hearing was served on both the applicant and the respondent by the tribunal. The applicant has not complied with directions and neither moves the application nor offers any evidence in support of the application.

Reasons for the Decision

The Tribunal dismisses the application because the applicant does not set out the legal basis for any part of his application; because the applicant does not quantify his

loss; because the applicant does not offer evidence in support of the application and because the applicant, having been given adequate notice of the time date and place of this hearing, no longer pursues the application.

Decision

For the foregoing reasons, the Tribunal determined to dismiss 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.

P Doyle

22 September 2020

Legal Member