



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 (1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/20/2228

Re: Property at 79 Whitehurst, Bearsden, G61 4PG ("the Property")

Parties:

Matra Property Limited, 6th Floor 145, St Vincent Street, Glasgow, G2 5JF ("the Applicant")

Miss Yvonne Loen, 79 Whitehurst, Bearsden, G61 4PG ("the Respondent")

Tribunal Members:

Andrew McLaughlin (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that:

- **Background**

The Applicant seeks an eviction order in respect of Grounds 4 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 ("The Act").

- The Case Management Discussion took place by conference call at 10 am on 6 January 2021. The Applicant had been notified of the details of today's Case Management Discussion and the Respondent had been served with the Application and details of the Conference call by Sheriff Officers on 23 November 2020. Despite this, neither party attended on the Conference call.

Preliminary Matters.

- The Tribunal noted that there was preliminary issue with the Application in any event. The Notice to Leave was served after 7 April 2020 and so the correct notice period in respect of Grounds 4 of Schedule 3 of the Act is three months. The Notice to Leave was posted on 21 July 2020 two days after the Notice was dated.

- The Act assumes that a Notice will be delivered 48 hours after it is sent and in terms of s54(2) of the Act the relevant period in relation to a notice to leave begins on the day the tenant receives the Notice to Leave. The Notice Period would therefore have been assumed to have commenced on 23 July 2020. However, the date to be inserted into the Notice to Leave is the day after the relevant period expires which in this case would be 24 October 2020, being the day after the expiry of the 3 month notice period.
- This Application was however submitted to the Tribunal on 22 October 2020 which is before the expiry of the period of notice.
- S54 (2) of the Act allows an Application to be entertained during the notice period if it is reasonable to do so. But with neither party being present at today's Case Management Discussion, the Tribunal had no basis to determine that it would be reasonable to entertain the Application.
- The Tribunal would also have specifically wished to hear reasons how it could be said to be reasonable to have entertained the Application given the current national lockdown in place in respect of the Covid-19 pandemic.

Decision.

- Accordingly, the Tribunal refused the Application on the basis that the Applicant was not present at today's Case Management Discussion and there were significant concerns about the competency of entertaining the Application in any event which were unanswered.

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.


ANDREW MCLEIGHAN

06/01/2021

Legal Member/Chair

Date