



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 33 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/21/2674

Re: Property at 18 Dollar Park, Motherwell, ML1 2LF (“the Property”)

Parties:

Mr David Baillie, 13 Brownhill View, Bonkle, ML2 9QJ (“the Applicant”)

Mr Joseph Brownlie, 18 Dollar Park, Motherwell, ML1 2LF (“the Respondent”)

Tribunal Members:

Petra Hennig-McFatrige (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of the parties)

The application is dismissed in terms of Rule 27 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017

A Background:

[1] The application for an order for Possession on Termination of a Short Assured Tenancy in terms of S 33 of The Housing (Scotland) Act 1988 was made on 28 October 2021 by the Applicant's representative Colette Lloyds from Independent Estates..

[2] The following documents were lodged on behalf of the Applicant prior to the date of the Case Management Discussion (CMD):

1. Copy Tenancy Agreement
2. AT5 document
3. Notice to Quit
4. S 33 Notice
5. Sheriff Officer report confirming service of Notice to Quit and S 33 Notice
6. S 11 Notice to the Local Authority and email confirming sending of same

7. Landlord Registration details
8. written authorisation of the representative Colette Lloyd by Mr David Baillie

The documents are referred to for their terms and held to be incorporated herein.

[3] A Case Management Discussion (CMD) had been scheduled to take place on 21 February 2022 at 10 am. The notification of the CMD was given to the Respondent by service by Sheriff Officers on 13 January 2022 and on the Applicant by letter dated 12 January 2021 to the Applicant's Representative Colette Lloyd at Independent Estates emailed to colette.lloyd@independentstates.com on 12 January 2022 at 12:17 hours. This was the contact email provided by Ms Lloyd in the application and in subsequent email correspondence.

B The Case Management Discussion:

[4] The CMD commenced on the conference call. Neither party attended. The tribunal clerk tried to contact the Applicant's representative on the telephone number provided in the application and on subsequent email correspondence but there was no reply. At 10:15 hours the Tribunal concluded that neither party had chosen to attend the CMD.

[5] The Tribunal members were satisfied that both parties had been duly notified of the CMD in terms of the requirements of Rule 17 (2) of the Rules of Procedure.

C Reasons for Decision

[6] Rule 27 of the procedural rules provides:

Dismissal of a party's case

27.—(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.

[7] The Applicant did not attend the CMD on 21 February 2022 and was not represented. No explanation had been given for the non attendance and no postponement request had been received by the Tribunal in connection with the application.

[8] Without further information from the Applicant and in particular without any information on the issue of reasonableness considerations the Tribunal is not able to decide the case justly and fairly.

[9] In the circumstances the Tribunal unanimously considered that the Applicant failed to co-operate with the First-tier Tribunal to such an extent that the First-tier Tribunal could not deal with the application justly and fairly.

[10] In light of that the Tribunal dismisses the application in terms of Rule 27 (2) of the procedural rules.

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. H.Mc-F.

Legal Member/Chair

21 February 2022

Date