

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/22/0735

Re: Property at 260 Talla Road, Glasgow, G52 2AY (“the Property”)

Parties:

Mr John Deans, 11 Helensburgh Drive, Glasgow, G13 1RR (“the Applicant”)

Ms Donna Smith, 260 Talla Road, Glasgow, G52 2AY (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member) and Mike Scott (Ordinary Member)

Decision (in absence of the Applicant and Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be dismissed for want of insistence.

Background

1. This application for an eviction order first called for a case management discussion by teleconference on 8th July 2022 at 2pm. There was no attendance by or on behalf of the Applicant at that case management discussion and the Respondent also did not attend.

2. Both parties had received notification of the case management discussion and in the letter to the Applicant he was advised that he required to take part in the discussion and that failure to take part would not stop a decision being made if the Tribunal considered it fair to do so and had sufficient information. No contact was received from the Applicant before 8th July 2022 to suggest there was any issue with him attending the case management discussion on that date.

3. The Tribunal determined on 8th July 2022 that the case management discussion be continued to a later date to ascertain if the Applicant was proceeding with the application and to raise an issue with him regarding a document lodged with the application for eviction.

4.The case management discussion was continued to 30th September 2022 at 10am and a note of the discussion on 8th July 2022 was issued to parties. The Tribunal also issued a Direction to the Applicant requiring him to respond to confirm that he wished to proceed with the application, to explain why he had not attended the case management discussion on 8th July 2022 and to make submissions on a matter relating to a document lodged with the application. Dates were given in the Direction by which the information was to be received.

5.No response was received from the Applicant to the Direction and no contact was received from him at all to explain his absence or his intentions as regards the application.

Case management Discussion 30th September

6.Both the Applicant and Respondent were notified of the case management discussion on 30th September 2022 at 10am but neither attended or were represented. There was no contact from the Applicant to suggest that he had any issue with attending the case management discussion on this date.

7.The Tribunal considered the application at the case management discussion on 30th September 2022. In order for an application to proceed the Tribunal requires an Applicant to attend or be represented at hearings in order to make progress with an application. The Applicant had been advised of both case management discussions and warned that if he failed to take part that an order could be made in his absence. Further the Tribunal had issued a Direction to the Applicant which had not been complied with at all.

8.The Tribunal considered Rule 27(2) of the First Tier Tribunal (Housing and Property Chamber Rules of Procedure 2017 which states :-

(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.

9.In the circumstances of this application the Tribunal is satisfied that both subsections of Rule 27 (2) are engaged in that the Applicant was warned about the possible effects of not attending a case management discussion and the Applicant also failed to cooperate with the Tribunal and did not respond to a Direction of the Tribunal or attend case management discussions of which notice had been given. Without the Applicant in attendance the Tribunal could not deal with the application and fairly and could not

make progress with it. The Applicant was not present to insist on the application and his intentions are unknown.

Statement of Reasons

10. The Tribunal dismissed the application for want of insistence given the Applicant's failure to attend case management discussions of which he had notice and his failure to cooperate with the Tribunal, all of which meant that the Tribunal could not deal with the Application justly and fairly, all in terms of Rule 27(2) of the First Tier Tribunal Housing and Property Chamber Rules of Procedure 2017.

Decision

The Tribunal dismissed the application for want of insistence.

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.

Valerie Bremner

30.9.22

Legal Member/Chair

Date