



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

Chamber Ref: FTS/HPC/CV/23/0606

Re: Property at 7B BRIDGE LANE, CATRINE, MAUCLINE, KA5 6RR (“the Property”)

Parties:

Miss JANICE NEIL, 3 THE KIR'S ALARM, KNOCKROON, CUMNOCK, AYRSHIRE, KA18 1FF (“the Applicant”)

Mr DAVID STEWART, 12 OTTOLINE DRIVE, TROON, KA10 7AW (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member)

Decision

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

Background

1. The Applicant submitted an application under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order for payment in respect of damage caused to her belongings.
2. A case management discussion (“CMD”) took place by conference call on 20 April 2023 and reference is made to the Note and Notice of Direction issued following that CMD.
3. The Tribunal received an email from the Respondent on 9 May 2023 and from the Applicant on 10 May 2023.

The case management discussion

4. The CMD took place by conference call. Both parties participated in the discussion. The Tribunal indicated that the CMD has been adjourned from 20 April 2023 for two reasons, namely for the Respondent to return venetian blinds to the Applicant and for the Applicant to lodge email correspondence between the parties. The parties agreed that the blinds had been returned to the Applicant. The Applicant explained that she sent an email to the Tribunal on 27 April 2023, attaching email correspondence between the parties. After some enquiry, that email was located and the Tribunal member read the terms of those emails to the parties. The Tribunal noted that the Respondent made an offer in full and final settlement and the Applicant accepted that offer. In those circumstances, the Tribunal considered that the Applicant was bound by the terms of that agreement and therefore dismissed the application.

Findings in fact

5. The parties entered into a private residential tenancy agreement which commenced 1 June 2021.
6. The property was affected by water ingress from another property on 10 December 2022.
7. The tenancy was terminated by agreement on 11 December 2022.
8. Some of the Applicant's belongings were damaged by the water ingress.

Reason for Decision

9. The Applicant explained at the CMD on 20 April 2023 that she had contents insurance but that she had intimated her claim outwith the timeframe for reporting a loss and therefore her insurers were not prepared to consider her claim.
10. There was no suggestion that the Respondent had been responsible for the damage to the Applicant's belongings; they had been water damaged because of water ingress from another property.
11. The Applicant produced email correspondence which had passed between the parties which disclosed that an agreement had been reached in full and final settlement and that agreement had been implemented. The agreement was unequivocal and unconditional. The parties are bound by that agreement and the Applicant's claim for additional sums from the Respondent must therefore fail.

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.

Nicola Irvine

Legal Member/Chair

25 May 2023

Date