



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 14 of the Housing (Scotland)
Act 2016**

Chamber Ref: FTS/HPC/CV/22/0514

Re: Property at 1 Ferguson Drive, Denny, FK6 5AE (“the Property”)

Parties:

Mr Lawrence Dick, 26b Duke Street, Denny, FK6 6DD (“the Applicant”)

Mr William Finlay, 28 Morven Court, Hallglen, Falkirk, FK21 2QD (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of both parties)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that in the absence of both parties the application be rejected as being frivolous in terms of Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).

Background

1. By application dated 23 February 2022 the Applicant’s solicitor applied to the Tribunal for an order for payment of rent arrears. The Application was accepted by the Tribunal on 19 May 2022.

2. A Case Management Discussion (“CMD”) under Rule 17 of the Regulations was originally assigned to proceed on 19 September 2022. This was discharged as it coincided with Her Majesty the late Queen’s funeral. On 15 September 2022 the Tribunal advised both parties that an adjourned CMD would proceed on 24 October 2022 at 10am. The Applicant’s solicitor was sent notification by way of an email and the Respondent by Recorded Delivery letter.

Case Management Discussion

3.The Tribunal proceeded with the CMD on 24 October 2022. There was no appearance by or on behalf of either the Applicant or the Respondent despite the Tribunal keeping the conference call line open until 11am.

Reasons for Decision

5. The Tribunal noted the terms of the letters to the both parties of 15 September 2022 that the adjourned CMD would proceed on 24 October 2022 at 10 am. The Tribunal also noted that both parties were advised in the letters that the Tribunal could do anything at the CMD which it could do at a hearing including making a decision on the application. The Tribunal further noted that parties were both advised that if they did not attend the Case Management Discussion this would not stop a decision or order being made by the Tribunal.

6. The Tribunal noted the level of arrears were stated at £4760. The Tribunal, in the absence of the Applicant or any representative from the Applicant and in the absence of the Respondent, had no information before it to indicate whether any payments had been made to the arrears since the action was raised, whether the arrears has been cleared or whether parties had come to an arrangement in terms of which the arrears would be repaid. In the circumstances, the Tribunal could not make any assessment of the current arrears.

Decision

7. The Tribunal rejected the application as being frivolous in terms of Rule 8 (1) of the Regulations.

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.

Shirley Evans

25 October 2022

Legal Member

Date

