



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 and Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules”)

Reference number: FTS/HPC/EV/23/4560

Re: Property at 80 Linburn Road, Glasgow, G52 4EW (“the Property”)

The Parties:

Mr Reetinder Pal Singh, 110 Saucel Crescent, 2/1 The Elipta, Paisley, PA1 1SX (“the Applicant”)

Miss Linda Kernachan, present whereabouts unknown and Mr Steven Kernachan, present whereabouts unknown, both previously residing at 80 Linburn Road, Glasgow, G52 4EW (“the Respondents”)

Tribunal Members:

**Ms Susanne Tanner KC (Legal Member)
Mrs Helen Barclay (Ordinary Member)**

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”):

refused the Application for an eviction order.

The decision of the tribunal was unanimous.

Statement of Reasons

Procedural Background

1. The Applicant made an application to the tribunal seeking the Respondents' eviction from the Property under rule 109 and Ground 4 in Schedule 3 to the 2016 Act.
2. The Application was accepted for determination on 12 April 2024.
3. A Case Management Discussion (CMD) was fixed and postponed due to failed service on the Respondents.
4. Another CMD was fixed on 31 October 2024 at 1400h. A notification letter of the date, time and joining instructions was sent to the Applicant and was served on the Respondents by Service by Advertisement on the tribunal's website.
5. The Respondents did not submit any defence to the Application or make any contact with the tribunal.

First CMD (teleconference): 31 October 2024, 1400h

6. The first CMD took place on 31 October 2024.
7. The Applicant attended.
8. Neither Respondent attended. The tribunal was satisfied that the Respondents had been notified of the CMD via Service by Advertisement and proceeded on the basis of the representations of the party present and the material before it.
9. Reference is made to the Notes on the CMD which were sent to the Applicant after the CMD and available to the Respondents by contacting the tribunal after service by advertisement.
10. During the first CMD, the Applicant indicated that as far as he is aware the Respondents have abandoned the property. The tribunal identified in the evidence submitted by the Applicant that the communication section in the Private Residential Tenancy had been deleted and that no Notice to Leave had been served on the Respondents prior to the Application being made. The Applicant said that he had received some legal advice prior to giving an AT6 to the Respondents but not had any legal advice or housing advice in connection with his Application.
11. The tribunal asked the Applicant whether he would like the opportunity to adjourn and take legal advice or other advice in relation to his Application. The tribunal provided the Applicant with a link to useful links on the tribunal's website for sources of advice. The Applicant requested two weeks to seek advice. He

said that he may withdraw his Application. The tribunal agreed to adjourn the CMD to allow the Applicant to seek legal or other advice and to consider whether to withdraw the Application; and if not to comply with the tribunal's Directions regarding further procedure.

12. The date for an adjourned CMD on 9 January 2025 at 1400h was identified and notified to the Applicant during the first CMD.
13. The tribunal issued a Direction requiring the Applicant to confirm in writing no later than 21 November 2024 whether he wished to withdraw the Application; and if he wished to continue with the Application, he was ordered to do the following, having taken any legal advice or other advice he wished:
 - a. lodge a written legal submission, summarising why he submits that his Application for eviction in terms of Rule 109 and should succeed in the absence of a Notice to Leave as required by the Private Housing (Tenancies)(Scotland) Act 2016; and
 - b. any legal authorities referred to must be lodged in a numbered bundle.
14. The Applicant did not comply with the tribunal's Direction.
15. Written notification and joining instructions for the second CMD were sent to the Applicant. The Respondents were served by advertisement on the tribunal's website.
16. The Applicant did not make any contact with the tribunal following the first CMD or after notification of the second CMD.

Second CMD: 9 January 2025 at 1400h (teleconference)

17. The Applicant did not attend the second CMD or make any contact with the tribunal.
18. The Respondents did not attend the second CMD.

Discussion

19. The tribunal deliberated, considered the Application and supporting evidence, the overriding objective and all the circumstances. There are legal issues with the Application and the evidence relied upon which the Applicant has not addressed. The Applicant sought and was given time to seek legal advice after the first CMD and it was adjourned for that reason. The Applicant failed to comply with the tribunal's Direction dated 31 October 2024 by 21 November 2024. The Applicant was made aware of the date of the second CMD during the first CMD and received further by written notification. The Applicant did not make any contact with the tribunal following the first CMD. The eviction order

sought may in any event be unnecessary as the Applicant told the tribunal at the first CMD that the Respondents had abandoned the Property. The tribunal decided to refuse the Application for want of insistence by the Applicant.

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.

**Ms. Susanne L. M. Tanner K.C.
Legal Member/Chair**

Date: 09 January 2025