



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 43 of the Tribunals (Scotland) Act 2014

Chamber Ref: FTS/HPC/CV/21/2932

Re: Property at Flat 0/1, 5 Belmont Road, Paisley, PA3 4TT (“the Property”)

Parties:

Ms Anne-Laure Grimaud, Unit 27261, PO Box 26965, Glasgow, G1 9BW (“the Applicant”)

Mr Robert Burns, 17 Dalskeith Crescent, Paisley, PA3 1AJ (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member)

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

1. This is an application by the Applicant for review of a decision of the Tribunal refusing her application for an order for payment at a case management discussion that took place on 29 March 2022 (‘the Decision’). The Decision was sent to her on 5 April 2022 and the request for a review was made on 6 April 2022. The Tribunal asked for evidence that the request had been copied to the Respondent on 21 April 2022. The Applicant returned an email to the Respondent dated 21 April 2022 copying the request, the same day.
2. The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (‘the Rules’) set out the process for consideration of an application to review a decision at rule 39, as follows (so far as relevant to this case):

“39.— Review of a decision

(1) The First-tier Tribunal may ... at the request of a party review a decision made by it ... where it is necessary in the interests of justice to do so.

(2) An application for review under section 43(2)(b) of the Tribunals Act must—

(a) be made in writing and copied to the other parties;

(b) be made ... within 14 days of the date that the written reasons (if any) were sent to the parties; and

(c) set out why a review of the decision is necessary.

(3) If the First-tier Tribunal considers that the application is wholly without merit, the First-tier Tribunal must refuse the application and inform the parties of the reasons for refusal. ...”

3. Rule 16A of the Rules is also relevant in this case and reads (so far as relevant):

“16A.— Regulation of procedure

Subject to the provisions of housing legislation, the Tribunals Act and these Rules, the First-tier Tribunal may regulate its own procedure, including—

(a) extending or shortening the time for complying with any rule or order...”

4. This application has failed to comply with the requirements of rule 39(2)(b). It was not properly made until it was copied to the Respondent; and that did not take place until more than 14 days after the Decision, with written reasons, was

sent. It therefore falls firstly to the Tribunal to determine whether to exercise its discretion to extend the time for complying in terms of rule 16A.

5. The Tribunal will exercise its discretion to do so. The Applicant is not legally represented and was not advised of her failure to comply with this rule until after the deadline had passed. While not having representation does not in itself excuse a failure to comply with the Rules, it is notable, in this instance, that the Applicant dealt with the matter immediately it was brought to her attention and was only two days beyond the relevant deadline. There is little prejudice to the Respondent in allowing the application to be received.
6. The Tribunal therefore must turn to the issue of whether the application is wholly without merit. It finds that it is.
7. The Applicant bases the request for a review on three points:
 - a) That the notice to leave served unilaterally by her should have brought the tenancy to an end. That is simply a restatement of one of the arguments already addressed in the Decision and found to be incorrect. As observed in the Decision, in order to bring a joint private residential tenancy to an end, a notice to leave must be sent by all joint tenants; and it is the explicit position of the Applicant that that did not happen in this case.
 - b) That the Tribunal failed to consider the impact of allegations of domestic abuse on the validity of any agreement to transfer the deposit. Even if it were to be sustained, this objection to the reasoning in the Decision could not change the outcome. The Decision effectively posited the Applicant's case its highest- that there was a valid assignation of her interest in the tenancy- and explained that, even on that basis, it was doomed to fail. If any assignation agreement were rendered invalid, the outcome would be the same.
 - c) That the Respondent failed to confirm whether the tenancy had ended (or, more precisely, whether or not the Applicant's interest in the tenancy had

come to an end). This question is not relevant to determination of the application. The Tribunal explained in the Decision how on either interpretation of the situation the application must fail. There is no need for a determination to be made in relation to this point, therefore.

8. For all of these reasons, the Tribunal finds that the Applicant's application for review is wholly without merit. It does not put forward any arguable case that it is necessary in the interests of justice to review the Decision. The application is therefore refused.

Nairn Young

Legal Member/Chair

24/05/2022

Date