

Housing and Property Chamber

First-tier Tribunal for Scotland



Regulation 38 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017

Chamber Ref: FTS/HPC/PR/20/0434

Re: Property at 100 Castle Heather Drive, Inverness IV2 4ED (“the Property”)

Parties:

Veronica Craig, residing at 19 Templand Road, Lhanbryde IV30 8PP (“the Applicant”)

And

Marion MacInnes, residing at 18 Slackbuie Way, Inverness, IV2 6AT (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)

Decision

The Respondent’s Application for permission to appeal against the Tribunal’s decision dated 6 August 2020 is refused.

Reasons for decision

1. By email dated 26 August 2020 the respondent seeks permission to appeal the decision of the First-tier Tribunal for Scotland, Housing and Property Chamber, dated 6 August 2020. The grounds of appeal are

I wish to appeal the decision on the above reference number on the grounds that I view the whole process flawed.

- LPS did not notify me of their decision until the appeal date had passed,
- The amount of damage caused by the appellant,
- The fact that 3 people were living in the property when it was only let for one. On this ground we will contact DWP as she has obviously defrauded both them and Highland Council.

The respondent produces invoices, photographs and letters speaking to the condition of the property at the start and at the end of the period of let.

2. An appeal can only competently be made on a point of law. The respondent's application for permission to appeal does not identify an error of law. The appeal before the First-tier Tribunal was limited to consideration of the Tenancy Deposit Schemes (Scotland) Regulations 2011. The respondent, in her written evidence, admitted a breach of the 2011 Regulations. In those circumstances, Regulation 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 obliges the First-tier Tribunal to make a payment order against the respondent.

3. The respondent now wants to introduce arguments about breach of the terms of the tenancy agreement and about the condition the property was left in when the Applicant vacated the property. In an application under the Tenancy Deposit Schemes (Scotland) Regulations 2011 those are completely irrelevant arguments and could not competently have been considered by the First-tier Tribunal.

4. The application for permission to appeal does not identify an arguable error of law. The application is simply an attempt to relitigate this appeal on evidence which was not (and should not be) before the First-tier Tribunal.

5. The First-tier Tribunal took correct guidance in law and made evidence-based findings of fact before reaching conclusions well within the range of available reasonable conclusions. The grounds of appeal do not identify an arguable error of law. Permission to appeal is refused.

Decision

Permission to appeal is refused in terms of reg38(3) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the First-tier Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Permission to appeal must be sought by application to the Upper Tribunal within 30 days of the date this decision is sent to the parties.

P. Doyle

Signed
Legal Member

1 September 2020