

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in respect of an application under Rule 30 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) and made in terms of Rule 17(4) of the Rules.

Chamber Ref: FTS/HPC/PR/21/2450

Re: Property at 13B Main Street, Kilsyth, G65 0AH (“the Property”)

Parties:

Mitchells Asset Management Ltd, 604 Alexandra Parade, Glasgow, G31 3BS, the respondent in terms of the original application made under Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the Regulations”) and now the Applicant in these proceedings.

Mr David Hanley, 1 Baldoran Way, Milton of Campsie, G66 8FA the applicant in terms of the original application made under the Regulations and now the Respondent in these proceedings.

Tribunal Members:

Karen Moore (Legal Member)

Decision (in absence of Mitchells Asset Management Ltd, the now Applicant)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) dismisses the Recall Application

Background

1. By application dated between 8 and 14 October 2021 (“the Application”), Mr. Hanley, the now Respondent applied to the Tribunal for an Order in terms of Regulation 10 of the Regulations. The Application was accepted by the Tribunal and a Case Management Discussion (“CMD”) was fixed for 29 November 2021 at 14.00 by telephone conference. The CMD was intimated to the Parties. At the request of request Mitchells Asset Management Ltd, the now Applicant, the CMD was postponed and a fresh CMD was fixed for 17 January 2022 at 10.00 which date was intimated to the Parties to their email addresses.
2. The CMD took place on 17 January 2022 at 10.000 by telephone. Mr. Hanley took part. Mitchells Asset Management Ltd did not take part. The outcome of the CMD was that the Tribunal made an order for payment in the sum of £4,030.50. The Tribunal’s

written decision and the order for payment were intimated to the Parties to their email addresses.

Application for Recall

3. By email received on 1 April 2022, the now Applicant applied for a recall of the Tribunal's decision in terms of Rule 30 of the Rules ("the Recall Application").
4. The Tribunal was satisfied that Rule 30(1), Rule 30(2), Rule 30(3) and Rule 30(4) were complied with. However, in respect of Rule 30(4), the Rule 30 Application was made outwith the prescribed timescale. The Tribunal has discretion in terms of Rule 30(5) to allow a late application on cause shown. Accordingly, in terms of Rule 30(9)(c), the Tribunal ordered the Parties to appear at a case management discussion ("the Recall CMD") where the Tribunal would consider whether to recall its decision of 17 January 2022.

Recall CMD

5. The Recall CMD was fixed for 15 August 2022 at 10.00 which date was intimated to the Parties to their email addresses, and, in respect of the now Applicant, to its updated email address and to his agent, which agent advised the Tribunal that she did not act on its behalf.
6. The CMD took place on 15 August 2022 at 10.00 by telephone. Mr. Hanley, the now Respondent, took part. Mitchells Asset Management Ltd, the now Applicant, did not take part and was not represented.
7. The Tribunal was satisfied that Mitchells Asset Management Ltd, the now Applicant, had been notified of the Recall CMD and so proceeded in its absence.
8. The Tribunal had no information before it to support the Recall Application being made late and so had no reason to exercise a discretion and allow the Recall Application. Accordingly, the Tribunal dismissed the Recall Application and that in terms of Rule 17 (4) of the Rules.

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.

K. Moore

15 August 2022

Legal Member/Chair

Date