



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Regulation 10 of The Tenancy Deposit Schemes (Scotland) Regulations

Chamber Ref: FTS/HPC/PR/22/0123

Re: Property at 23/5 Viewcraig Street, Edinburgh, EH8 9UJ (“the Property”)

Parties:

Mrs Viviane Calkic, 19 Rue D'Alsace, Levallois, France, 92300, France (“the Applicant”)

Prosper Management Limited, 9 Royal Crescent, Glasgow, G3 7SP (“the Respondent”)

Tribunal Members:

Petra Hennig-McFatrige (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to dismiss the application.

This is an application made under rule 103 of the Rules of Procedure lodged by the Applicant on 14 January 2022 against the Respondent. The case was accepted on 24 January 2022 with a Direction for the Applicant to provide further information about the tenancy the case related to. The Applicant did not comply with said Direction.

A first Case Management Discussion (CMD) for this case took place on 4 April 2022 and neither party attended. However, the Applicant contacted the First-tier Tribunal by email to advise she had problems dialling into the teleconference at the time and asked if a CMD could be held through a web-based facility. The First-tier Tribunal on that occasion agreed to conduct a further CMD by WebEx as requested by the Applicant and issued a CMD note again advising the Applicant to comply with the Direction first issued on 24 January 2022 and to further address the issue of the landlord identity. On 11 May 2022 both parties were issued with formal notification that a further CMD by WebEx would take place on 6 June 2022 and a link to the WebEx session would follow shortly before the date. The Respondent received service by Sheriff Officers and the Applicant by email to the email address provided by her and previously used

by her to contact the First-tier Tribunal. The actual joining link was sent to both parties on 1 June 2022. The Respondent acknowledged the receipt of the WebEx link by return.

The Case Management Discussion

Neither party attended the second CMD. The First-tier Tribunal was satisfied that sufficient and correct notification for the CMD on 6 June 2022 had been given to both parties.

No contact had been made by the Applicant and no written representations in answer to the Direction of 24 January 2022 had been received from the Applicant.

Reasons for Decision

Rule 27 of the procedural rules provides:

Dismissal of a party's case

27.—(1) The First-tier Tribunal must dismiss the whole or a part of the proceedings if the First-tier Tribunal does not have jurisdiction in relation to the proceedings or that part of them.

(2) The First-tier Tribunal may dismiss the whole or part of the proceedings if the applicant has failed to—

(a) Comply with an order which stated that failure by the applicant to comply with the order could lead to the dismissal of the proceedings or part of them; or

(b) Co-operate with the First-tier Tribunal to such an extent that the First-tier Tribunal cannot deal with the proceedings justly and fairly.

The Applicant did not attend the further CMD on 6 June 2022 and was not represented. The Tribunal had clearly indicated that further information was required from the Applicant in particular with regard to the nature of the tenancy and the landlord identity. No information was provided by the Applicant.

Without further information from the Applicant the Tribunal is not able to decide the case justly and fairly. The Applicant failed to co-operate with the First-tier Tribunal to such an extent that the First-tier Tribunal could not deal with the application justly and fairly.

In light of that the Tribunal dismisses the application in terms of Rule 27 (2) of the procedural rules.

Decision:

The application is dismissed in terms of Rule 27 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017

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.

**Petra Hennig McFatridge
Legal Member/Chair**

**6 June 2022
Date**