



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 94 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”) and Section 41 of the Housing (Scotland) Act 2014 (“the 2014 Act”)

Chamber Ref: FTS/HPC/GA/23/0929

Parties:

Fairview Properties Glasgow Limited, 11 Suntroy Grove, Jackton, Glasgow, G75 8SR (“the Applicant”)

Scottish Ministers, Housing and Social Justice Directorate, Better Homes Division (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Applicant)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application be dismissed.

Background

1. By application lodged on 22 March 2023, as subsequently amended, the Applicant appealed to the Tribunal in terms of Section 41 of the 2014 Act against the decision of the Respondent to refuse their application for renewal of application for registration as a letting agent. The application was submitted by Mr Stefan Maurice Smyth of the Applicant company.
2. On 23 May 2023, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.
3. A Case Management Discussion was fixed to take place by telephone conference call on 25 July 2023 at 10am. Notification of the application was issued to the Respondent and the details of the CMD fixed were notified to both parties on 15 June 2023. The Respondent was asked to lodge any written

representations in response to the application by 6 July 2023. Written representations, an Inventory of Productions and a List of Authorities was lodged timeously by the Respondent on 5 July 2023 and circulated to the Applicant and Tribunal Members on 7 July 2023. The Applicant's Mr Smyth has communicated with the Tribunal Administration by email in respect of the application, most recently by email on 14 July 2023 in response to an email or emails he had received regarding this matter. Other than said email of 14 July 2023, the Applicant did not lodge any written representations in response to those lodged by the Respondent, nor any further documents prior to the CMD.

Case Management Discussion

4. On 25 July 2023, the Respondent's solicitor, Ms Louise Laing and two Observers, Mr Steven Young and Mr Robert Drummond-Murray of the Respondent joined the telephone conference CMD at 10am. The Tribunal delayed the start of the CMD for over five minutes to see if the Applicant would join late but they did not do so. It was also noted by the Tribunal that the Tribunal Administration had checked and that no last-minute contact had been made by the Applicant.
5. Following introductions and introductory comments, Ms Laing was asked to confirm the Respondents' position in respect of the application, given that the Applicant was not in attendance and had not been in contact with the Tribunal Administration with any explanation, nor to seek a postponement of the CMD, etc. Ms Laing made reference to the lengthy written representations and other documentation which had been lodged on behalf of the Respondent and the fact that the Applicant had had proper notice of same and of the CMD and requested, in the circumstances, that the Tribunal refuse the Applicant's appeal.
6. The Tribunal adjourned the CMD briefly to discuss the matter and, on reconvening, confirmed to the Respondent that, in the circumstances, the Tribunal had decided to dismiss the application in terms of Rule 27 of the Regulations.

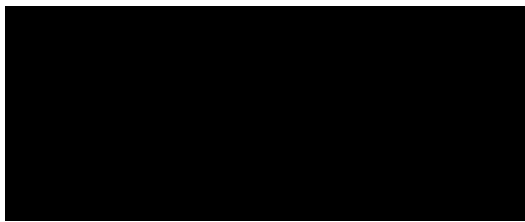
Reasons for Decision

1. The Applicant did not attend the CMD, having been properly and timeously notified of same and had not submitted any information or documentation contradicting the Respondent's written representations nor requesting a postponement of the CMD. In these circumstances, the Tribunal could see no justification for continuing the proceedings to a further CMD or an Evidential Hearing.
2. The Tribunal was satisfied from the terms of the Tribunal's communications with the Applicant that the Applicant was aware (or ought to have been aware) of the ongoing Tribunal process, the CMD and the requirement for him to attend same. In all the circumstances, the Tribunal considered that the Applicant had not co-operated with the Tribunal to the extent that the Tribunal could deal with

the proceedings justly and fairly in terms of Rule 27 of the Regulations and therefore determined that the application should be dismissed.

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.



Legal Member/Chair

25 July 2023
Date