

**Housing and Property Chamber
First-tier Tribunal for Scotland**



**DECISION AND STATEMENT OF REASONS OF ALISON KELLY, LEGAL MEMBER OF
THE FIRST-TIER TRIBUNAL WITH DELEGATED POWERS OF THE CHAMBER PRESIDENT**

Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of
Procedure 2017 ("the Rules")

In connection with

Case Reference: FTS/HPC/LA/18/0709

Mr Keith Robertson ("the Applicant")

Mr Colin Campbell, CMC Property Management Ltd("the Respondent")

The Application was lodged under Rule 95 of the Chamber Procedural Rules on 26th March 2018.

A request for further information was issued to the Applicant on 6th April 2018 asking for the Applicant to provide any management Agreement or Terms of Business entered in to with the Letting Agent.

The Applicant on 9th April 2018 provided a copy of the Full Management Agency mandate entered in to with the letting agent, dated 5th December 2011, and also explained that the letting agent had changed name, but no new Agreement had been entered in to.

The Applicant also supplied a copy of a letter, dated 8th December 2017, which he had sent to the letting agent. In numbered paragraph 7 of that letter he said that he considered that the Agreement between them had been ended with immediate effect on 4th October 2017.

DECISION

I considered the application in terms of Rule 8 of the Chamber Procedural Rules. That Rule provides:-

"Rejection of application"

8.—(1) *The Chamber President or another member of the First-tier Tribunal under the delegated powers of the Chamber President, must reject an application if—*

(a) they consider that the application is frivolous or vexatious;

(b) the dispute to which the application relates has been resolved;

(c) they have good reason to believe that it would not be appropriate to accept the application;

(d) they consider that the application is being made for a purpose other than a purpose specified in the application; or

(e) the applicant has previously made an identical or substantially similar application and in the opinion of the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, there has been no significant change in any material considerations since the identical or substantially similar application was determined.

(2) Where the Chamber President, or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, makes a decision under paragraph (1) to reject an application the First-tier Tribunal must notify the applicant and the notification must state the reason for the decision. "

- 2 After consideration of the application and supporting documents I consider that the application should be rejected on the basis that it is not appropriate to accept it in terms of Rule 8(1)(c) of the Procedural Rules.

REASONS FOR DECISION

The Applicant's letter to the letting agent clearly states that the contract has terminated as at 4th October 2017. The Letting Agent Code of Practice (Scotland) Regulations 2016 did not come in to force until 31st January 2018, and therefore the Tribunal cannot accept this application and it falls to be rejected.

What you should do now

If you accept the Legal Member's decision, there is no need to reply.

If you disagree with this decision: –

An applicant aggrieved by the decision of the Chamber President, or any Legal Member acting under delegated powers, 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.

Information about the appeal procedure can be forwarded to you on request.

Miss Alison Kelly
Legal Member
16th April 2018