



**DECISION AND STATEMENT OF REASONS OF MARTIN J. MCALLISTER,
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

**18 Specklewood Road, Dundee
51 Byron Crescent, Dundee
70 Woodside Terrace, Dundee
("the Properties")**

Case Reference: FTS/HPC/LA/22/4500

Fixrole Ltd ("the Applicant")

Pavilion Properties ("the Applicant's Representative")

Braehead Lettings Ltd ("the Letting Agent")

1. The Applicant's Representative submitted an application to the Tribunal dated 21st December 2022 in terms of Section 48 (1) of the Housing (Scotland) Act 2014 ("the 2014 Act") and Rule 95 of the Rules.
2. A legal member of the Tribunal considered the application and ascertained, having carried out a search at Companies House, that Braehead Lettings Ltd (SC485863) had been dissolved on 20th December 2022. It was noted that the company had been compulsorily struck off the register of companies.
3. On 10th January 2023, the Applicant's Representative was written to and asked if it wanted the application to proceed notwithstanding the fact that the Respondent company had been dissolved
4. On 10th January 2023, the Applicant's Representative responded in the following terms:

“This is a case where Sharon Jones of Braehead Lettings has broken many clauses in the Letting Agent Code of Practice and has kept several thousands of pounds of our client’s money. I don’t think it can be as simple as closing the Company down and walking away. I think that there would have been PII insurance. In the circumstance I confirm that we do not wish to withdraw the application.”

DECISION

5. The Legal Member considered the application in terms of Rule 5 and Rule 95 of the Rules and Section 48 of the 2014 Act. Rule 5 provides: - (1) An application is held to have been made on the date that it is lodged if, on that date, it is lodged in the manner as set out in rules 43, 47 to 50, 55, 59, 61, 65 to 70, 72, 75 to 91, 93 to 95, 98 to 101, 103 or 105 to 111, as appropriate. (2) The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged in the required manner by assessing whether all mandatory requirements for lodgment have been met. (3) If it is determined that an application has not been lodged in the prescribed manner, the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, may request further documents and the application is to be held to be made on the date that the First-tier Tribunal receives the last of any outstanding documents necessary to meet the requirement manner for lodgment. “
6. **After consideration of the application the Legal Member considers that the application should be rejected in terms of Rule 8(1) (c) which states that an application must be rejected if the Tribunal has “good reason to believe that it would not be appropriate to accept the application.” The basis of the decision is that the Applicant has failed to comply with Rule 5 and Rule 95 and Section 48 of the 2014 Act.**

REASONS FOR DECISION

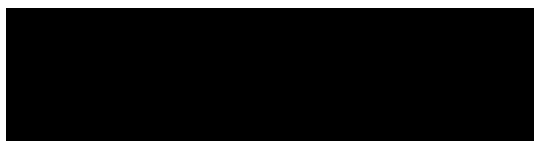
7. The Applicant's application is in terms of Section 48 of the 2014 Act and Rule 95 of the Rules. Section 48 concerns an application to the Tribunal seeking an order that a "relevant letting agent" has failed to comply with the Letting Agent Code of Practice.
8. The Respondent ceased to exist on 20th December 2022 and it is not competent for the Tribunal to consider an application where one party does not exist.
9. The Applicant's Representative has failed to provide any legal argument as to why the application should be admitted for determination.

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.



Martin J. McAllister, Legal Member
30th January 2023