

First-tier Tribunal for Scotland (Housing and Property Chamber)

Decision in respect of an application under Section 48 of the Housing (Scotland) Act 2014 (“the Act”) and issued under The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Rules of Procedure 2017

Reference number: FTS/HPC/LA/22/2464

Re: Property at 57 Riverside Drive, Aberdeen AB10 7LE (“the Property”)

The Parties:

Ms Amanda Boyle, residing at 10 Taypark, 30 Dundee Road, Broughty Ferry, Dundee DD5 1LX (“the Applicant”)

Skylar Atkinson Limited trading as Belvoir Aberdeen, 24 Rosemount Place Aberdeen AB25 XU (“the Respondent”)

Tribunal Members

James Bauld (Legal Member and Chair)

Ann Moore (Ordinary Member)

Background

1. This is an application which was originally lodged on 18 July 2022.
2. A hearing was set to take place on 23 November 2022 to consider this application which relates to allegations of breaches of The Letting Agent Code of Practice (“the Code”) which was introduced by The Letting Agent Code of Practice (Scotland) Regulations 2016. The hearing was to be conducted by telephone conference call.
3. That hearing required to be postponed owing to the illness of the ordinary member. A note was prepared and sent to parties indicating that the hearing would be adjourned to a later date and the parties would be advised of the adjourned date.

4. A further hearing was set to take place on 3 March 2023, and appropriate intimation of that was sent to all parties on 30 November 2022.

The Hearing of 3 March 2023

5. The conference call commenced at 10.10 a.m. The applicant did not attend the conference call. The respondent was represented by their director, Ms Skylar Atkinson. She was accompanied by a colleague Ms Anne Spence.
6. The tribunal members were advised by the Clerk to the tribunal that there has been no indication received from the applicant to indicate that she would not be able to attend the hearing. It was noted that the applicant had sent an email to the tribunal on 1 December 2022 acknowledging receipt of the intimation of the date of the hearing. The tribunal was therefore satisfied that the applicant was aware of the time and date of the hearing.
7. The tribunal members noted the terms of rule 29 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Rules of Procedure 2017 (“the tribunal procedural rules”) and decided that they were entitled to proceed with the hearing in the absence of the applicant.
8. The respondent indicated that in the absence of the applicant she would wish to have the application dismissed.
9. She told the tribunal that she had been in correspondence with the applicant after the initial hearing. She had sent an email on 3 January 2023 to the applicant making an offer to settle this application by means of payment to the applicant. The applicant had rejected that offer and the respondent had confirmed to the applicant by a further email of 4 January 2023 that she did not wish to increase the offer. The respondent indicated that the offer had simply been made in an attempt to resolve these proceedings and was not an admission of any breach of the Code of Conduct by her or her firm nor was it an admission of any liability on her behalf.

Discussion and decision

10. The tribunal members indicated that in their view, the application should be dismissed for want of insistence. The applicant was well aware of the date of the hearing and no indication had been sent to the tribunal that she was unable to attend or unfit to attend. It is the

responsibility of an applicant to proceed with their application and to present their case and supporting arguments to the tribunal

11. The tribunal members indicated this intention to the respondent who confirmed that she was happy with that decision of the tribunal.

12. The tribunal members thereafter concluded the hearing at approximately 10.18 a.m. Even by that time the applicant had not attended the conference call.

Decision

The application is 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.

06 March 2023

Legal Member/Chair

Date