



Decision with Statement of Reasons of Alan Strain, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber)

Under Rule 5 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules")

Chamber Ref: FTS/HPC/TE/19/1742

Re: 37 2F1, Warrander Park Road, Edinburgh, EH9 1HJ ("the Property")

Parties:

Miss Ahalya Bharat Bhat, Miss Anna Duffy, Miss Christina MacLeod, Mr Thomas Giles, Mr Jack Haveron ("the Applicant")

Mr Jasper McGuinness ("the Respondent")

Tribunal Member:

Alan Strain (Legal Member)

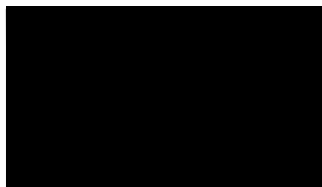
Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should not be accepted in accordance with Rule 5 (4) of the Procedural Rules.

Background

1. The application was received by the Tribunal under Rule 105 on 5 June 2019. The application seeks the Tribunal to draw up the terms of the tenancy and order payment. The following documents were enclosed with the application:

- (i) Copy of Landlord Notification under the Act that an application is being made dated 18 April;
- (ii) Email correspondence between the Parties;
- (iii) Unsigned tenancy agreement from 1 August 2018 to 31 July 2019;
- (iv) Proof of Rent paid;
- (v) Letter to Tribunal.



2. On 24 June 2019 the Application was considered by the Tribunal and a request for further information issued on the same date. The Applicant was requested to provide the information by 22 July 2019 failing which the application may not be accepted.
3. No response was received and the Tribunal wrote again requesting the further information by email of 7 August 2019. The emails said the information must be provided by 21 August 2019 or the application may be rejected. No response was received.

Reasons for Decision

4. The Tribunal considered the application in terms of Rule 5 of the Chamber Procedural Rules. That Rule provides:-

“Requirements for making an application

5.—

(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 lodgement 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 required manner for lodgement.

(4) The application is not accepted where the outstanding documents requested under paragraph (3) are not received within such reasonable period from the date of request as the Chamber President considers appropriate.”

5. In terms of section 16(3)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 (Act):

(3)An application under subsection (1)—

(a)may be made only during the course of the tenancy in question.

The Tenancy in this application has terminated with effect from 4 June 2019.

6. The Applicant has been asked to provide comment on section 16(3)(a) and provide further information the Tribunal deemed necessary. The Applicant has



failed to do so. In accordance with Rule 5(4) of the Tribunal Procedure Rules the Tribunal considers that the Application should not be accepted.

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

2 SEPTEMBER 2019
Date