

# Housing and Property Chamber

## First-tier Tribunal for Scotland



Decision by the Convener with Delegated Powers of the Chamber President

Under Rule 8 of the Schedule 1 to the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) (Regulations) 2017 ('the 2017 rules')

Re: Application to First-tier Tribunal made under Section 22(1) of the Housing Scotland Act 2006 and Rule 48 of the 2017 rules

Chamber Reference Number: FTS/HPC/RP/19/3140

Re: 15 Uist Place, Perth PH1 3BY  
1ES ('the house')

### Parties:

Miss Stella Shewan (the applicant)  
Mr Gorgi Hristov (the landlord)

### Decision

After careful consideration of the applicant's application in terms of rule 8 of the 2017 rules, I have decided that the application should be rejected.

### Reasons for the decision and grounds for rejection

I have considered the application in terms of Rule 8 of the 2017 rules. Rule 8 provides as follows:

#### 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.

### **Reasons for decision**

It is clear from the application that the applicant is making the application in her capacity as the owner of the flat below the house which is the subject of the application. In terms of section 22 of the Housing (Scotland) Act 2006, an application for a determination of whether a landlord has failed to comply with the repairing standard duty imposed by section 14(1) (b) of that Act must be made by either a tenant or a third party applicant. A 'third party applicant' is defined in terms of section 22 (1A) and (1B) as a) a local authority and b) a person specified by order made by the Scottish Ministers. To date, no orders have been made by Scottish Ministers under section 22 (1B).

An application to enforce the repairing standard may therefore only be made by either a tenant or a local authority. As the applicant is neither a tenant nor a local authority, the application is not therefore a valid application.

I have therefore decided to reject your application under Rule 8 (c) of the 2017 rules, as I have good reason to believe that it would not be appropriate to accept the application.

For the reasons stated above, your application is rejected.

### **What you should do now**

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

If you disagree with this decision –

**A party aggrieved by the decision of the Chamber President or the Convener 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.

Yours sincerely  
S O'Neill

Sarah O'Neill

Convener  
Legal member of the First-tier Tribunal for Scotland (Housing and Property Chamber)