



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 26 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.**

Chamber Ref: FTS/HPC/RE/23/3025

Re: 5/7 Fells Way, Edinburgh, EH17 8TZ ("the Property")

Parties:

Places For People (Scotland) ("the Applicant")

Touchstone ("the Applicant's Representative")

Neil Waterston 5/7 Fells Way, Edinburgh, EH17 8TZ ("the Respondent")

Tribunal Member: Martin J. McAllister (Legal Member)

**The Tribunal rejects the application by the applicant dated 18 August 2023 which is an application under Section 28 A(1) of the Housing (Scotland) Act 2006 and Rule 55 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.**

**Background**

1. The Application is for assistance to exercise the Applicant's right of entry under Section 28 A (1) of the Housing (Scotland) Act 2006 ("the 2006 Act").
2. The Applicant's Representative was asked to provide further information to enable the application to be considered. The request for information was in terms of Rule 5 (3) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules").

3. The information requested why it was considered that the Applicant had a right to make the application since it is a registered social landlord.
4. The Applicant's Representative responded on 16 November 2023. It confirmed that Places for People Scotland is the trading name of Castle Rock Edinvar which is a registered social landlord.
5. The Applicant's Representative stated that the Property is not social housing stock or regulated stocks and is a mid rent property. It stated that a private residential tenancy under the Private Housing (Tenancies) (Scotland) act 2016 is in place.
6. The Applicant's Representative stated that access is required to carry out the annual gas safety check.

## **Reasons**

7. The Legal Member considered the application in terms of Rule 5 and Rule 55 of the Chamber Procedural Rules. 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. "
8. **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 55. The Applicant is a registered social landlord and Section 28 A (9) of the 2006 Act states “ *No application may be made under subsection (1) where the landlord is-* (a) *a local authority landlord (within the meaning of the Housing (Scotland) Act 2001***

***(b) a registered social landlord (being a body registered in the register maintained under section 57 of that Act).***

**9. The Legal Member accepted that the Property is subject to a private residential tenancy in terms of the 2016 Act and that the Property may not be part of the Applicant’s social housing stock. In terms Section 28 A of the 2006 Act, it is the status of the Applicant which is relevant not the type of tenancy.**

**10. The Applicant is a registered social landlord and cannot apply for assistance under Section 28 of the 2006 Act.**

Martin J. McAllister, Legal Member

6 December 2023