



**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

3F Forrester Park Garens, Edinburgh, EH12 9AQ ("the Property")

Case Reference: FTS/HPC/RP/23/4627

Mr Raegan Moir ("the Tenant")

Halvon Berkshire Ltd ("the Landlord")

Decision

(I) The decision on 10 January 2024 to accept the application for determination is reviewed in terms of Section 43 of the Tribunals (Scotland) Act 2014 ("the 2014 Act") and is set aside in terms of Section 44 (1) (b) of the 2014 Act.

(II) The application is rejected in terms of Rule 8(1) (c) of the Rules.

Background

1. The Tenant submitted an application to the Tribunal on 20 December 2023 in terms of Section 22 (1) of the Housing (Scotland) Act 2006.
2. On 10 January 2024 a legal member of the Tribunal with delegated powers of the Chamber President accepted the Application for determination by the First-tier Tribunal.

Issue

3. The legal member of the Tribunal who accepted the application for

determination re-considered it and has determined that the decision of 10 January 2024 was incorrect and should be reviewed and set aside. The Tenant and Landlord are parties to a short Scottish secure tenancy agreement. A tenant under such a lease cannot submit an application to the Tribunal in respect of a landlord's failure to maintain a tenanted property to the repairing standard.

REASONS FOR DECISION

4. The Tenant's application is in terms of Section 22(1) of the 2006 Act and Rule 48 of the Rules. The application is in respect of the Landlord's alleged failure to maintain the property to the repairing standard as required by Sections 13 and 14 of the 2006 Act.
5. Section 12 (1) (a) of the 2006 Act sets out the tenancies to which the repairing standard applies:

12 Tenancies to which repairing standard duty applies

(1) This Chapter applies to any tenancy of a house let for human habitation unless it is—

*(a) a Scottish secure tenancy or a **short Scottish secure tenancy***

6. The tenancy agreement submitted with the application is a short Scottish secure tenancy. It is not competent for an application under Section 22(1) to be made by a tenant where the house in question is subject to a short Scottish secure tenancy.
7. The application is rejected in terms of Rule 8 (1) (c) of the Rules- "...good reason to believe that it would not be appropriate to accept the application."

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.

Note

The decision to review the decision cannot be appealed. The decision to reject the application for determination can be appealed on a point of law only.

M McAllister

Martin J. McAllister, Legal Member
5 April 2024