

Housing and Property Chamber

First-tier Tribunal for Scotland



Written Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Rule 17 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) in respect of Tribunal’s jurisdiction under Section 48(1) of the Housing (Scotland) Act 2014 (“the 2014 Act”)

Chamber Ref: FTS/HPC/LA/23/1790, 1834, 1836, 1838, 1842, 1844, 1845, 1850 and 1853

Re: Property at 25, Beechwood Terrace, Edinburgh, EH6 8DE and other addresses (“the Property Portfolio”)

Parties:

Mr. Ellis Johnson, 6, Scone Gardens, Edinburgh, EH8 7DQ (“the Applicant”)

H3 Property Scotland Ltd., 39, Turnhouse Road, Edinburgh, EH12 0AE (“the Respondent”)

Tribunal Member:

Karen Moore (Legal Member) and Francis Wood (Ordinary Member)

Outcome

The Tribunal dismissed the Applications and made no Order.

Background

1. By nine separate applications received on various dates between 4 June 2023 and 19 July 2023 (“the Applications”) the Applicant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) for a determination that the Respondent had failed to comply with the Code of Practice for Letting Agents (“the Code”).
2. Each Application specified the Property as “25, Beechwood Terrace” although it was apparent from the supporting documents that the complaints related to a portfolio of nine properties, of which one is 25, Beechwood Terrace (“the Property Portfolio”).

3. A legal member of the Chamber with delegated powers of the Chamber President accepted the Applications and a Case Management Discussion (CMD) was fixed for 17 October 2023 at 10.00 at George House, Edinburgh. Prior to the CMD, the Chamber Administration advised the Tribunal that the Respondent had been removed from the letting agent register.

First Case Management Discussion

4. The first CMD took place on 17 October 2023 at 10.00 at George House, Edinburgh. The Applicant, The Applicant, was present and was unrepresented. The Respondent was not present and was not represented. The Tribunal advised the Applicant that, having heard his submissions on the facts and circumstances of the contractual relationship between him and the Respondent, the Tribunal would need to take a view on jurisdiction. The Tribunal adjourned the CMD for this purpose.

Directions

5. The Tribunal issued two Directions to the Applicant requiring him to evidence that the contracts entered into by him and the Respondent constituted leases in terms of the Act and that he is or was a landlord in terms of the Act.

6. The Respondent complied with the first Direction in part and did not comply with the second Direction to any extent. In particular, the Applicant did not submit documentary evidence to support his entitlement to make the Applications.

Second Case Management Discussion

7. The second CMD took place on 18 April 2024 at 10.00 by telephone conference call. Neither Party was present or represented. The Tribunal was satisfied that notification had been given to the Parties.

Issue for the Tribunal


8. The issue for the Tribunal is one of jurisdiction and whether or not the Applicant is entitled to make the Applications.

Decision of the Tribunal with reasons

9. The Tribunal had no information before it to show that the Applicant is a landlord in terms of the Act nor to show that the contracts entered into between the Parties were leases in terms of the Act.

10. Accordingly the Tribunal took the view that it had no jurisdiction and so dismissed the Applications with no Orders being made.

Signed

A solid black rectangular box used to redact the signature of Karen Moore.

Karen Moore, Chairperson

19 April 2024