

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision

Section 48(6) of the Housing (Scotland) Act 2014 (“The Act”)

Chamber Ref: FTS/HPC/LA/23/4309

The Parties:-

Mr Ayodeji Owananade
(“the Applicant”)

4M Group
(“the Respondent”)

Tribunal Members:
Martin J. McAllister, Solicitor, (Legal Member)
John Blackwood (Ordinary Member)
(the “tribunal”)

Background

1. This is an application made by the Applicant under Rule 95 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”) to enforce the Letting Agent Code of Practice (“the Code”).
2. The application was received by the Tribunal on 5 December 2023 and was accepted for determination on 1 February 2023.
3. The application states that the Respondent has failed to comply with various sections of the Code.
4. The Applicant entered into a private residential tenancy agreement with Jack Fortune Ltd on 21 November 2023 in respect of a property at 210 Station Road, Blantyre, G72 9BT (“the Property”).
5. The Applicant stated that the Respondent acted as letting agent and arranged for him to pay £550 to the landlord of the Property. The application states that the Applicant was denied entry to the Property and that the sum of £550 has not been returned to him. The Applicant’s position is that, in this regard, the Respondent failed to comply with the Code.

6. A case management discussion was set down for 7 June 2024.
7. On 12 April 2024, the Tribunal received a letter from “The Private Family Office Fortune.” This was subsequent to documents which had been served on the Respondent at 2 Corstorphine High Street, Edinburgh.
8. The letter of 12 April stated, inter alia, that there is no such entity as 4M Group.

Decision

The case before the Tribunal is dismissed and the case management discussion set down for 7 June 2024 is cancelled.

Reasons

9. The tribunal made enquiries as to the status of the Respondent as it can only deal with a party who/which is a legal person. 4M Group does not exist as a legal person. The Application form clearly states the Respondent to be 4M Group. The Applicant has submitted no documentation to support that 4M Group exists. It is not a limited company. A search in Companies House disclosed that two limited companies had the name 4M Group Ltd and that both had been dissolved, one on 23 November 2021 and the other on 15 August 2014.
10. The tribunal considered that it would be inappropriate to continue to determine the application since the Respondent does not exist as an entity. As a consequence of this, the case management discussion should not take place and the application be dismissed.
11. Rule 27 of the Tribunal Rules states that a case must be dismissed if the Tribunal has no jurisdiction in relation to it. The Tribunal can have no jurisdiction over a non-existent entity.
12. The tribunal considered that the application should not have been admitted for determination on 1 February 2023 and that this had been done in error.

Note

13. If it is the Applicant’s position that he paid money to a landlord which he believes should be repaid to him then it is open to him to consider making an application to the Tribunal under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016.

In terms of section 46 of the Tribunals (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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Martin J. McAllister,
Legal Member
14 May 2024