



**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

65 Seaforth Road, Falkirk, FK2 7TR ("the Property")

Case Reference: FTS/HPC/LA/24/2045

Alexander Mmonyi ("the Applicant")

West View Park Homes ("the Respondent")

1. The Applicant submitted an application to the Tribunal in terms of Section 48 (1) of the Housing (Scotland) Act 2014 ("the 2014 Act") and Rule 95 of the Rules in respect of the alleged failure of the Letting Agent to comply with the Letting Agent Code of Practice ("the Code"). The application was received on 7 May 2024.
2. As a consequence of the Tribunal's request of the Applicant to provide more information, a copy of the relevant private residential tenancy agreement was provided. This is dated 8 February 2024 and states that the landlord is West Park Homes Ltd.

DECISION

3. The Legal Member considered the application in terms of Rule 5 and Rule 95

of the Rules and Section 48 of the 2014 Act. 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. “

- 4. 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 provide evidence that the Respondent is a letting agent in respect of the Property.**

REASONS FOR DECISION

5. The Applicant’s application is in terms of Section 48 of the 2014 Act and Rule 95 of the Rules. Section 48 (2) states that

“ A relevant letting agent is-

(a) In relation to an application by a tenant, a letting agent appointed by the landlord to carry out letting agency work in relation to the house occupied (or to be occupied) by the tenant.”

6. The private residential tenancy agreement discloses that the Respondent is the

landlord and not the letting agent. The Legal Member therefore determines that the application cannot be accepted. The application is rejected on that basis.

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.

Martin J. McAllister, Legal Member
27 August 2024.