



Decision with Statement of Reasons of Alan Strain, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber)

Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules")

Chamber Ref: FTS/HPC/GL/24/3365

Parties

LHP Solutions (Applicant)

East Ayrshire Council Housing Services (Respondent)

Tribunal Member:

Alan Strain (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be rejected on the basis that it would not be appropriate to accept the application in terms of Rule 8(1)(c).

Background

1. The application was received by the Tribunal under Rule 99 on 24 July 2024.
2. The application was considered by the Tribunal and further information was requested by email of 8 August 2024 followed by reminder of 27 August 2024.

The Applicant was requested to provide:

"A legal member of the First-tier Tribunal with delegated powers of the Chamber President considers that in order for the Tribunal to be able to consider your application further the undernoted information /documentation is required: The Tribunal's Rules of Procedure Rule 5 A state: "Time limits 5A.—(1) This rule applies where no time limit

for making an application is prescribed by or under another enactment. (2) Where the application relates to a right of appeal from any decision, the application must be lodged with the First-tier Tribunal, in accordance with rule 5, within 21 days after the date on which notice of the decision to which the application relates was sent to the applicant.”. The letter from East Ayrshire Council you submitted is dated 28 June 2024 and thus in terms of Rule 5A the 21 day time limit expired on 19 July 2024. The application was not received by the Tribunal until you emailed this to the Tribunal on 24 July 2024 and thus appears to be lodged outwith the time limit stated in Rule 5A. If you disagree please make representations as to the legal basis you consider allows you to make the application under rule 99 on 24 July 2024. Please consider taking legal advice as a matter of urgency. At this stage the application also remains incomplete. Rule 99 (iii) requires you to provide the name and address of the Local Authority. You have made the application against East Ayrshire Council Housing Services. This is not the organisation stated on the decision letter. Please amend the application. Rule 99 (v) requires you to give reasons why you are appealing against the decision. You have not provided a document setting out the reasons for the appeal. As it stands the application would have to be rejected. You are given the opportunity to make representations within 7 days. However, this letter does not provide an extension of the time limit stated in rule 5A and if the Tribunal is not satisfied that the application was made in time having received your further representations then the application will have to be rejected. Please reply to this office with the necessary information by 15 August 2024. If we do not hear from you within this time, the President may decide to reject the application.”

The Applicant responded by email of 5 September 2024 and asked for an extension of time to provide the information requested. This was granted and the Applicant was given until 27 September 2024 to respond.

No response was received.

Reasons for Decision

3. The Tribunal considered the application in terms of Rule 8 of the Chamber Procedural Rules. That Rule provides:-

"Rejection of application

8.-(1) The Chamber President or another member of the First-tier Tribunal under the delegated powers of the Chamber President, must reject an application if-

*(a) they consider that the application is frivolous or vexatious;·
(c) they have good reason to believe that it would not be appropriate to accept the application;*

(2) Where the Chamber President, or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, makes a decision under paragraph (1) to reject an application the First-tier Tribunal must notify the applicant and the notification must state the reason for the decision."

3. The application seeks to proceed under Rule 99. The Applicant has failed to provide necessary information as detailed in paragraph 2 above. The Tribunal cannot grant an

order under Rule 99 without the information requested. The Applicant has been warned that if the information was not provided then the application may be rejected.

4. The Tribunal consider that the failure to provide the required information constitutes good reason why the application should not be accepted. The application is accordingly rejected.

Right of Appeal

In terms of Section 46 of the Tribunal (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.

A. Strain

1 November 2024

Legal Member/Chair

Date