



Decision with Statement of Reasons of H Forbes, 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/PF/24/3234

Re: 31 Birdston Drive, Steps, North Lanarkshire, G33 6FL ("the Property")

Parties:

Fiona Moffat ("the Homeowner")

SG Property Management ("the Property Factor")

Tribunal Member:

H Forbes (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 the Tribunal has good reason to believe it would not be appropriate to accept the application in terms of Rule 8(1)(c) of the Procedural Rules.

Background

1. The application was received by the Tribunal in terms of Section 17 of the Property Factor (Scotland) Act 2011 ("the Act") on 17th July 2024.
2. The application was considered by a legal member of the Tribunal with delegated authority of the Chamber President and further information was requested on 2nd August 2024. The Homeowner was asked to provide evidence that the Property Factor had been notified about their concerns in terms of Section 17(3) of the Act. The Homeowner was asked to provide a copy of the written statement of services, as required by the Procedural Rules.
3. The Homeowner responded on 22nd August 2024, asking for assistance.

4. By email dated 23rd August 2024, the Homeowner was provided with a link to access assistance and advice.
5. On 1st October 2024, the Homeowner was provided with a further opportunity to provide the requested information and documentation. No response was received.

Decision

6. 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."

7. On consideration of the above test, the Tribunal considers that this application should be rejected in terms of Rule 8(c) on the basis that there is good reason to believe it would not be appropriate to accept the application.

Reasons for Decision

8. The Legal Member considered the application in terms of Rule 5 and Rule 43 (2) (a). 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.”

9. Rule 43(2)(a) provides that that a homeowner must attach to the application a copy of “the notification from the homeowner to the property factor for the purposes of section 17(3)(a) of the 2011 Act.” Rule 43(2)(d) provides that an application must be accompanied by any statement of services provided by the property factor to the homeowner

10. The Homeowner has not lodged the application in the manner set out in Rule 43. There is good reason to believe it would not be appropriate to accept the application. The application is 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.

Legal Member/Chair

12th November 2024
Date