



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 26 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.**

Chamber Ref: FTS/HPC/RE/24/5491

Re: Flat 7, 4 Carter Mews, Edinburgh, EH17 8GS ("the Property")

Parties:

Castle Rock Edinvar ("the Applicant")

Touchstone Property Management ("the Applicant's Representative")

S ("the Respondent")

Tribunal Member: Martin J. McAllister (Legal Member)

**The Tribunal rejects the application by the applicant received on 27 November 2024 which is an application under Section 28 A(1) of the Housing (Scotland) Act 2006 and Rule 55 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.**

**Background**

1. The application is for assistance to exercise the Applicant's right of entry under Section 28 A (1) of the Housing (Scotland) Act 2006 ("the 2006 Act").
2. The applicant seeks access to carry out an electrical installation condition report.
3. The Applicant and the Respondent have entered into a private residential tenancy in terms of the Private Housing (Tenancies) Act 2016. The tenancy commenced on 9 February 2022.

## Decision

4. **After consideration of the application the Legal Member determined 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.”**

## Reasons

5. The Legal Member considered the application in terms of Rule 5 and Rule 55 of the Chamber Procedural Rules. 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. “
6. The legal member accepted that the Applicant has good reasons to get access to the Property. It was also accepted that the tenancy is a private residential tenancy in terms of the Private Housing (Tenancies) (Scotland) Act 2016. The Applicant has chosen to organise its affairs in such a way that it enters into private residential tenancies rather than having a separate entity to do so.
7. Castle Rock Edinvar is a housing association regulated by the Scottish Housing Regulator.

8. The basis of the decision is that the Applicant has failed to comply with Rule 5 and Rule 55. The Applicant is a registered social landlord and has not submitted an application which is competent. It is not the type of tenancy or the type of housing stock which is relevant to such applications but the status of the landlord.
  
9. Section 28 A (9) of the 2006 Act states “ *No application may be made under subsection (1) where the landlord is- (a) a local authority landlord (within the meaning of the Housing (Scotland) Act 2001 (b) a registered social landlord (being a body registered in the register maintained under section 57 of that Act).* The Applicant is a registered social landlord and cannot apply for assistance under Section 28 of the 2006 Act.

# M McAllister

Martin J. McAllister, Legal Member, 19 December 2024