



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rules 8(1) and 26 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Chamber Ref: FTS/HPC/PF/24/4401

50 Rowett South Road, Bucksburn, Aberdeen, AB21 9GB ("the Property")

Parties:

Kelsey Mickleburgh ("Applicant")

James Gibb ("Respondent")

Tribunal Member: Ruth O'Hare (Legal Member) with delegated powers from the Chamber President

Decision

The Tribunal rejects the application by the Applicant received by it on 20 September 2024 under Rule 8(1)(c) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules").

Background

- 1 The Applicant submitted an application to the Tribunal under Rule 43 of the Rules for a determination of whether the Respondent had failed to carry out the property factor's duties, and ensure compliance with the property factor code of conduct as required by section 14(5) of the Property Factors (Scotland) Act 2011 ("the 2011 Act").
- 2 On 28 October 2024 the Tribunal wrote to the Applicant requesting the notification to the Respondent that was a requirement under section 17(3) of the 2011 Act as the correspondence provided did not provide sufficient notice of the complaint. The Tribunal also noted that the application form did not specify the alleged breaches of the Property Factor Code of Conduct 2021, nor the property factor duties, and requested an amended application form from the Applicant.
- 3 The Applicant did not respond. On 28 November 2024 the Tribunal wrote again to the Applicant requesting the information. The Applicant was advised that if she did not respond by 5 December 2024 the application may be rejected.
- 4 No further response was received from the Applicant.

Reasons for Decision

- 5 The Legal Member considered the application in terms of the Rules and 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.” The basis of the decision is that the Applicant has failed to provide the information requested by the Tribunal under Rule 5(3) of the Rules which is necessary to meet the required manner for lodgement. The Applicant has been asked for the information on two occasions. The Applicant has been warned that a failure to provide the information may result in the application being rejected. Accordingly the Legal Member has concluded that the application cannot be accepted in its current form and must be rejected under Rule 8(1)(c).

NOTE: What you should do now.

If you accept this decision there is no need to reply. If you disagree with this decision you should note the following: A party aggrieved by this 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 seek permission to appeal within 30 days of the date the decision was sent them. Information about the appeal procedure can be forwarded on request.

Ruth O’Hare, Legal Member
22 January 2025