



**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

Cot Castle Estate ("the Property")

Case Reference: FTS/HPC/LM/24/5364

**Sophie Murdoch ("the Applicant")
REDACTED ("the Property Factor")**

1. The Applicant submitted an application to the Tribunal on 21 November 2024 in terms of Section 17 of the Property Factor (Scotland) Act 2011 ("the 2011 Act"). On 10 December 2024, 9 January, 14 February and 4 March all 2025, the Tribunal issued a request for further information to the Applicant. The Applicant was asked to provide evidence that the Property Factor had been notified of the concerns of the Applicant in relation to alleged breaches of the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors ("the Code") and its alleged failure to comply with the property factor's duties. The Applicant was also asked to submit a copy of the written statement of services issued to her by the Property Factor. No substantive response has been received to any of the requests for information.

DECISION

2. The Legal Member considered the application in terms of Rule 5. 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. “

3. **After consideration of the application the Legal Member considers that the application should be rejected in terms of Rules 8(1) (c) and 43 (2) (a) of the Rules. Rule 8 (1) (c) 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.” Rule 43 (2) (a) states that the 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) states that an application must be accompanied by any statement of services provided by the property factor to the homeowner. The basis of the decision is that the Applicant has failed to comply with Rules 5, 8 and 43.**

REASONS FOR DECISION

4. The Application is in terms of Section 17 of the 2011 Act and Rule 43. Section 17 (3 (a) of the Act states that an application to the Tribunal cannot be made unless the homeowner has notified the property factor in writing as to why the homeowner considers that the property factor has failed to carry out the property factor’s duties or, as the case may be, to comply with the section 14 duty must set out “the homeowners reasons for considering the property factor has failed to carry out the property factor duties or, as the case may be, to

comply with the section 14 duty.”

5. The Applicant has failed to provide evidence that she has given such notification.
6. Rule 43 (2) (d) requires an applicant to submit a copy of the written statement of services.
7. The Applicant has failed to provide information, having been directed to do so in a request for further information by the Tribunal, in terms of Rule 5(3) of the Rules.
8. 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
23 April 2025