



**Statement of Decision under Rule 38(3) of the First-tier Tribunal for Scotland  
Housing and Property Chamber Rules of Procedure 2017 (contained in Schedule 1 of  
the Chamber Procedure Regulations 2017 (SSI No 328)) (“the Procedure Rules”) in  
relation to a request for permission to appeal under section 46(3) (a) of the Tribunals  
(Scotland) Act 2014**

**Chamber Ref: FTS/HPC/EV/20/2228**

**Re: Property at 79 Whitehurst, Bearsden, G61 4PG (“the Property”)**

**Parties:**

**Matra Property Limited, 6th Floor 145, St Vincent Street, Glasgow, G2 5JF (“the  
Applicant”)**

**Miss Yvonne Loen, 79 Whitehurst, Bearsden, G61 4PG (“the Respondent”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that:**

**Background**

- On 6 January 2021 the Tribunal refused the above Application at a Case Management Discussion.
- A Decision with Statement of Reasons was issued and this decision is referred to for its terms which sets out the basis for the Application and the reasons for the decision made to refuse the Application.

- The Applicant has now lodged an Application for Permission to Appeal that decision by email dated 7 January 2021.

### **The Rules**

- Rules 37 and 38 regulate procedure in respect of Applications for Permission to Appeal.
- These Rules are in the following terms:

#### *Application for permission to appeal a decision of the First-tier Tribunal*

37.—(1) A person must make a written application to the First-tier Tribunal for permission to appeal.

(2) An application under paragraph (1) must—

(a) identify the decision of the First-tier Tribunal to which it relates;

(b) identify the alleged point or points of law on which the person making the application wishes to appeal; and

(c) state the result the person making the application is seeking.

(3) No application to appeal may be made in relation to—

(a) a decision arising from a review by the First-tier Tribunal under rule 39(1);

(b) rule 58(f);

(c) section 7 (apportionment of the rateable value by the sheriff where the dwelling-house forms part of lands and heritages) of the 1984 Act;

(d) section 97 (change of circumstances affecting a tenant who shares accommodation with persons other than landlord which are deemed to be rent increases) of the 1984 Act;

(e) section 85B(6) (application by a local authority for an extension of the time limit for determining an application for landlord registration) of the 2004 Act;

(f) section 28A (landlord application to exercise right of entry) of the 2006 Act;

(g) section 66A (appeals in relation to the right to adapt rented houses for a disabled person or for energy efficiency under section 52) of the 2006 Act;

(h) paragraph 3 of schedule 5 (warrants for ejection to enforce house in multiple occupation amenity notices) of the 2006 Act;

(i) section 33 (time limit for determining application for registration as a letting agent) of the 2014 Act; or

*(j) section 29 (First-tier Tribunal's power to set rent) of the 2016 Act.*

#### *First-tier Tribunal's consideration of application for permission to appeal*

*38.—(1) The First-tier Tribunal must decide whether to give permission to appeal on any point of law.*

*(2) The First-tier Tribunal must provide a record of its decision to the parties and any interested party as soon as reasonably practicable.*

*(3) If the First-tier Tribunal refuses permission to appeal on any point of law, it must provide its decision—*

*(a) a statement of its reasons for such a refusal; and*

*(b) notification of the right to make an application to the Upper Tribunal for permission to appeal and the time within which, and the method by which, such an application must be made.*

#### **The Basis of the Application.**

- The Application for Permission to appeal raises two matters.
- The first is to present a reason for the Applicant's non-attendance at the Case Management Discussion.
- The second can be regarded as suggesting a reason as to why the Tribunal might have taken a different approach in respect of the deficiencies noted regarding the Notices to Leave which are addressed in the decision. The Applicant would have wished the Tribunal to have exercised its discretion in a different manner and to have granted the Applications based on the Notice to Leave despite the errors contained within that notice which are set out in the decision (and not disputed).

#### **Consideration of the Rules to the Application.**

- The Tribunal must determine whether the Application for Permission to Appeal identifies "a point of law".

- Having considered the lines of argument raised in this Application and the decision made by the Tribunal to refuse the Application, the Tribunal cannot identify any error of law upon which Permission to Appeal could properly be granted as per the terms of Rule 37 (2) (b) and Rule 38 (1).
- The Tribunal has some sympathy for the Applicant who unfortunately made a mistake in trying to join the conference call. This is the sort of issue that might present a basis for a review of the decision, but the Tribunal cannot consider that this would in any way meet the threshold of identifying an error of law.
- The Tribunal also cannot take the view that by refusing to exercise its discretion to entertain a flawed Notice to Leave, the Tribunal made an error of law.

### Decision.

- Having considered that there is no error of law adequately identified in the Application, The Tribunal refuses to grant permission to appeal.

### **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.**



ANDREW McLAUGHLIN

19/01/2021

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**Legal Member/Chair**

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**Date**