

**Housing and Property Chamber**  
**First-tier Tribunal for Scotland**



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 26 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules) in relation to an application for extension of time limit to determine application for registration as a letting agent under Rule 93 of the Procedure Rules.**

**Chamber Ref: FTS/HPC/XA/19/2702**

**Parties:**

**The Scottish Government ("the Applicant")**

**Core Property Management Limited ("the Respondent")**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")**

**Tribunal Member: Jacqui Taylor (Legal Member)**

**Background**

1. The Applicant submitted an Application to the Tribunal under Tribunal Rule 93 for an extension of time to determine the Respondent's application for registration as a letting agent in terms of section 33(3) of the Housing (Scotland) Act 2014. The Application was dated 29<sup>th</sup> August 2019.

The Application stated:

'An application was made under section 32 of the Housing (Scotland) Act 2014, which was received by the Scottish Ministers on 30<sup>th</sup> August 2018. The Registration Team began processing the application on 30<sup>th</sup> January 2019. The Applicants are waiting for written confirmation from the Respondent's bank that the account they have in place meets the requirements of the Letting Agent Code of Practice (paragraphs 121 and 123).

The Applicant seeks an extension to the time limit to determine the application for registration as a letting agent to enable the Respondent to do the following:

- (i) To provide written confirmation from the Respondent's bank that the account they have in place meets the requirements of paragraph 122 of the Letting Agent Code of Practice.
- (ii) To obtain bank accounts required by paragraph 121 of the Letting Agent Code of Practice, in the event that they do not already have one.

The Applicant seeks an extension of three months to the time limit to determine the application for registration as a letting agent. This determination must currently be made by 29<sup>th</sup> August 2019.'

## **2. Documents lodged with the Tribunal.**

Documents lodged with the Tribunal by the Applicant were:

**2.1** A copy of an email from the Respondent dated 29<sup>th</sup> August 2019 confirming that they would attend to the requirements regarding the designated account and that they have no objection to the Application being made to the Tribunal.

## **3. Decision**

### **3.1. Requirements of Section 93 of the Procedure Rules.**

In connection with the requirements of section 93 the Application correctly detailed the requirements of section (i),(ii), (iii) (iv) and (v) of section 93 the Procedure Rules namely:-

- (i) The address of the Scottish Ministers.
- (ii) The name and address and profession of the representative of the Scottish Ministers.
- (iii) The name, address and registration number of the Respondent.
- (iv) The reason why an extension is sought and
- (v) The date of receipt by the Scottish Ministers of the application under section 32 of the 2014 Act, namely 30<sup>th</sup> August 2018.

The Application had been signed and dated by Charlotte McHaffie, a representative of the Scottish Ministers, as required.

### **3.2 Requirements of section 33 of the Housing (Scotland) Act 2014.**

Section 33(2) of the Housing (Scotland) Act 2014 requires the Scottish Ministers to determine an application for registration of a Letting Agent within 12 months of receiving the application.

Section 33(3) of the said Act provides that the Scottish Ministers may apply to the First- tier Tribunal for an extension of the time limit by such period as the Tribunal thinks fit.

Section 33(4) of the said Act provides that the Tribunal may not extend a period unless the Scottish Ministers apply for the extension before the period expires.

The Scottish Ministers received the application from the Respondent on 30<sup>th</sup> August 2018. They submitted the application for extension to the First tier Tribunal on 29<sup>th</sup> August 2019. The Application had been received timeously.

3.3 In terms of Tribunal Rule 18(1) the Tribunal may make a decision without a hearing where the facts are not disputed and to do so would not be contrary to the interests of the parties. In terms of Tribunal Rule 18(2) before making a decision under paragraph (1) the Tribunal must consider any written representations submitted by the parties.

The Tribunal issued a Notice of Direction dated 4<sup>th</sup> September 2019 directing the parties to provide the Tribunal with any written representations as to whether or not they would wish a hearing to be fixed. They directed that the documentation should be lodged with the Tribunal by 25<sup>th</sup> September 2019.

Craig Campbell, Letting Agent Registration Team, Better Homes Division, Scottish Government sent the Tribunal Administration an email dated 10<sup>th</sup> September 2019 which stated that he did not wish a hearing to be fixed, provided that the Respondent

was in agreement. The Respondent did not provide the Tribunal with any written representations in response to the Direction. The Tribunal deem the lack of response to be indicative of their consent given that they had sent the said email dated 29<sup>th</sup> August 2019 confirming that they have no objection to the Application being made to the Tribunal.

Consequently the Tribunal determine that a decision will be made on the application without a hearing as the facts are not disputed and it is not contrary to the interests of the party to do so.

**In the whole circumstances the Tribunal determine that the time period for the Scottish Ministers to determine the application for registration of the Respondent as a Letting Agent under section 30 of the Housing (Scotland) Act 2014 is extended to 16<sup>th</sup> January 2020 as the Respondent agrees with the Application and it is in the Respondent's interest for the Application to be granted.**

Jacqui Taylor  
.....

.... **Legal Member**

**16<sup>th</sup> October 2019**

