

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/19/2754

Parties:

The Scottish Government ("the Applicant")

Ark Housing Association ("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 4th September 2019.

The Application stated:

'The application was made under section 32 of the Housing (Scotland) Act 2014, which was received by the Scottish Ministers on 5th September 2018.

The Registration team began processing the application on 28th January 2019. The application has taken some time to assess due to the Respondent's insurance providers amending the Respondent's insurance policy and to provide the documentation. This documentation has now been provided. Subsequent assessment has identified an individual who requires to be added to the application. The Applicant seeks an extension to the time limit to determine the application for registration as a letting agent to enable the Respondent to this application to do the following:-

- (1) To enable the Respondent to include an additional individual on their application (required by section 30(2)(D) of the Housing (Scotland) Act 2014) and (2) to enable the Applicant to conduct a fit and proper person consideration of this individual (as required by section 34 of the Housing (Scotland) Act 2014).

The Applicant seeks an extension of two months to the time limit to determine the application for registration as a letting agent. The determination must currently be made by 4th September 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 3rd September 2019 confirming 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 5th September 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 5th September 2018. They submitted the application for extension to the First tier Tribunal on 3rd September 2019 ('The Tribunal Application'). The Tribunal 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.

Tribunal Rule 18(2) provides that before making a decision under Tribunal Rule 18(1) the Tribunal must first consider any representations submitted by the parties.

The Tribunal issued a Direction to the parties dated 11th September 2019 directing them to (i) provide the Tribunal with written representations as to whether or not they would wish a hearing to be fixed and (ii) provide the Tribunal with a time line detailing the actions taken by the Applicants to progress the application.

The Applicants sent the Tribunal written representations on 3rd October 2019 which detailed the required timeline of events and confirmed that they are content that no

hearing is fixed provided the Respondent is in agreement and the Tribunal is minded to grant the Application.

The Respondents did not lodge any written representations in response to the Tribunal's Direction and consequently the Tribunal consider that the Respondents do not object to the Tribunal making a decision on the Application without a hearing. The Tribunal determine that a decision will be made without a hearing as the facts are not disputed and it is not contrary to the interests of the parties to do so.

The Tribunal note from the Applicants' written representations dated 3rd October 2019 that the Respondents have provided the Applicants with all the information that they require to satisfy the Scottish Ministers that their application to the Register should be approved.

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 17th December 2019 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

17th October 2019

