

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/19/3144

Parties:

The Scottish Government ("the Applicant")

Property Letting Glasgow 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 4th October 2019.

The Application stated:

'The application was made under section 32 of the Housing (Scotland) Act 2014 and was received by the Scottish Ministers on 05 October 2018. The registration team began processing the application on 14 May 2019.

The application has taken some time to assess due to the Respondent failing to respond to almost all communications from the Applicant.

The Applicant has attempted to contact the respondent on 14 May 2019, 17 June 2019, 16 July 2019, 03 September 2019 and 26 September 2019.

The Respondent has only responded to the applicant's email of 16 July 2019. The Respondent replied on 18 July 2019 to apologise for the delay and to advise they would have the information sent to the Applicant as soon as possible. To date no documents or information have been received from the Respondent.

On 04 September 2019 the Applicant sent a notice to the Respondent indicating that Scottish Ministers were considering refusing the application. On checking the

tracking of the letter the Applicant was advised by royal mail that the letter has not been received at their delivery office.

The Applicant therefore seeks an extension to the time limit to determine the Respondent's application to join the Scottish Letting Agent Register. This extension is to enable the Applicant to do the following:

- 1) Issue a second considering refusal notice to the Respondent.
- 2) To assess any written representations that the respondent may provide under section 32(6)(b) of the Housing (Scotland) act 2014.
- 3) Fully assess any documents or information that the Respondent may provide in response to the considering refusal notice.
- 4) To determine the Respondent's application to the Scottish Letting Agent Register
- 5) To enable the Respondent to submit written representations in response to the considering refusal notice if they wish to do so and provide any requested documentation and information requested by the Applicant if they wish to do so.

The Applicant seeks an extension to the time limit to determine the application for registration as a Letting Agent to the 30 March 2020 to enable the Respondent and applicant to carry out the actions detailed above.

2. Documents lodged with the Tribunal.

Documents lodged with the Tribunal by the Applicant were:

- 2.1 A letter from the Applicants to the Respondents dated 4th September 2019 giving notice that they are considering refusal of their application.
- 2.2 Emails between the parties.

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 October 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 completed application from the Respondent on 5th October 2018. They submitted the application for extension to the First tier Tribunal on 4th October 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 15th October 2019 directing them to provide the Tribunal with written representations as to whether or not they would wish a hearing to be fixed.

The Applicants sent the Tribunal written representations on 5th November 2019 which 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 sent the Tribunal a letter dated 5th November 2019 and enclosed copies of the following documentation:

- ICO Certificate
- PRS certificate
- Qualifications Level 6 award.
- Complaints procedure.
- Property Repairs and Maintenance Procedure.
- Indemnity Insurance and new application for new indemnity insurance.
- Old application to CMP and communication to reapply.
- Old application to ARLA and new application to LAS.

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 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 30th March 2020 as the Respondent agrees with the Application and it is in the Respondent's interest for the Application to be granted.

..... 

Legal Member

20th November 2019