

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/19/3047

Parties:

The Scottish Government ("the Applicant")

Georgina Bradley t/a Jigsaw Property Agents, 52 Milton Street, Motherwell, ML1 1DQ ("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 27th September 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 30 September 2018. The Registration team began processing the application on 1st May 2019.

The Application has taken sometime to assess due to the Respondent failing to respond to communications from the Applicant. The Applicant has tried to contact the Respondent via phone call and email without success.

On 16th August 2019 the Applicant sent a Notice to the Respondent indicating that Scottish Ministers were considering refusing the application. This Notice was returned on 3rd September 2019 and marked return to sender. The Notice appears to have been sent to the incorrect address.

On 4th September 2019 a second notice was sent to the Respondent. This notice was returned to the Applicant on 24th September 2019 and was marked addressee gone away.

Investigations revealed that a limited company with the name Jigsaw Property Agents Ltd had been incorporated on 22nd August 2019. One of the Directors of this Company appears to be the Applicant. On 26th September 2019 this company changed their name to T G Property Lettings Ltd.

On 25th September a letter was sent via recorded delivery to the address on companies house for Jigsaw Property Agents Ltd (The name at the time of the letter being sent) asking them to contact the letting agent team. The Royal mail website indicates that this letter has been marked return to sender as the recipient is not at the address.

On 25th September a letter was sent to the home address given for the Respondent in their application to join the Scottish Letting Agent Register. This letter was taken to the Motherwell Dispatch Office as nobody was at the address to sign for this. On 27th September 2019 this letter was collected and signed for by 'Bradley' at 10.17am but the Respondent has not contacted the Applicant at the time of the submission of this application.

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 Respondent to do the following:

- (1) To progress the refusal process.
- (2) To assess any written representations that the Respondent may provide under section 32(6)(B) of the Housing (Scotland) Act 2014.
- (3) To determine the outcome of the Respondent's application to the Scottish Letting Agent Register and
- (4) To enable the Respondent to provide written representations in response to the Considering Refusal Notice (Under section 36(2)(B) of the Housing (Scotland) Act 2014) if they desire 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.'

2. Decision

2.1. 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 30th September 2018.

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

2.2 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 30th September 2018. They submitted the application for extension to the First tier Tribunal on 27th September 2019 ('The Tribunal Application'). The Tribunal Application had been received timeously.

2.3 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 20th November 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 12th December 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 Respondent did not lodge any written representations in response to the Tribunal's Direction and consequently the Tribunal consider that the Respondent does 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 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.

J Taylor

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... Legal Member

18th December 2019

