



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 26 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Chamber Ref: FTS/HPC/RE/21/2971

Re: 3 Hopetoun View, Gullane, East Lothian, EH31 2BP ("the Property")

Parties:

Linda Denholm, 16 Parker Terrace, Edinburgh, EH7 6SQ ("the Applicant")

Fabio Milazzo, 3 Hopetoun View, Gullane, East Lothian, EH31 2BP ("the Respondent")

Tribunal Member: Martin J. McAllister (Legal Member)

The Tribunal rejects the application by the applicant dated 15TH November 2021 which is an application under Section 28 A(1) of the Housing (Scotland) Act 2006 and Rule 55 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Background

1. The Applicant was asked to provide further information on 29th December 2021. The request for information was in terms of Rule 5 (3) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules").
2. The information requested was clarification on the application because the Applicant was not the landlord, clarification on the tenants because the tenancy agreement showed two tenants but the application was against one alone, information on what access was required and details of attempts made.
3. The Applicant's Representative was advised that such information required to be provided by 19th January 2022.

4. A further request was made on 20th February 2022 and the Applicant was advised that, if the information were not provided by 27th February 2022, the application may be rejected.
5. On 21st February 2022, the Applicant emailed the Tribunal and stated that “some headway” had been made with regard to access but that she did not know if this would be achieved by 27th February 2022.
6. No further communication has been received from the Applicant.

Reasons

7. The Legal Member considered the application in terms of Rule 5 and Rule 55 of the Chamber Procedural Rules. Rule 5 provides: - (1) An application is held to have been made on the date that it is lodged if, on that date, it is lodged in the manner as set out in rules 43, 47 to 50, 55, 59, 61, 65 to 70, 72, 75 to 91, 93 to 95, 98 to 101, 103 or 105 to 111, as appropriate. (2) The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged in the required manner by assessing whether all mandatory requirements for lodgment have been met. (3) If it is determined that an application has not been lodged in the prescribed manner, the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, may request further documents and the application is to be held to be made on the date that the First-tier Tribunal receives the last of any outstanding documents necessary to meet the requirement manner for lodgment. “
8. **After consideration of the application the Legal Member considers that the application should be rejected in terms of Rule 8(1) (c) which states that an application must be rejected if the Tribunal has “good reason to believe that it would not be appropriate to accept the application.” The basis of the decision is that the Applicant has failed to comply with Rule 5 and Rule 55 and Section 28 A (4) of the 2006 Act.**

Martin J. McAllister, Legal Member, 14th March 2022