



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/22/2319

Re: 3F3, 14 Murdoch Terrace, Fountainbridge, Edinburgh, EH11 1BB ("the Property")

Parties:

Places For People (Scotland) ("the Applicant")

Touchstone ("the Applicant's Representative")

Daniel MacLennan 3F3, 14 Murdoch Terrace, Fountainbridge, Edinburgh, EH11 1BB ("the Respondent")

Tribunal Member: Martin J. McAllister (Legal Member)

The Tribunal rejects the application by the applicant dated 13th July 2022 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 Application is for assistance to exercise the Applicant's right of entry under Section 28 A (1) of the Housing (Scotland) Act 2006 ("the 2006 Act").
2. The Applicant's Representative was asked on 22nd August 2022 to provide further information to enable the application to be considered. 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").

3. The information requested why it was considered that the Applicant had a right to make the application since it is a registered social landlord. No response was received and a further letter was sent on 13th September 2022 which indicated that the Chamber President may consider rejecting the application if a response was not received by 20th September 2022. No response was received to the further letter.

Reasons

4. 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. “
5. **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. The Applicant is a registered social landlord and Section 28 A (9) of the 2006 Act states “ *No application may be made under subsection (1) where***

the landlord is- (a) a local authority landlord (within the meaning of the Housing (Scotland) Act 2001

(b) a registered social landlord (being a body registered in the register maintained under section 57 of that Act). The Applicant is a registered social landlord and cannot apply for assistance under Section 28 of the 2006 Act.

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them

M J McAllister

Martin J. McAllister, Legal Member, 1st November 2022