



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) on the application to extend the time period for permission to appeal made by the applicant

Case reference: FTS/HPC/PF/21/0213

Re:- 2B Ferguslea Terrace, Torrance, Glasgow G64 4BU

The Parties:-

Mr Paul Martin, residing at 2B Ferguslea Terrace, Torrance, Glasgow G64 4BU (“the Applicant”)

and

Homesbook Factoring Ltd, 111 Cowgate, Kirkintilloch, Glasgow G66 1JD (“the Respondent”)

Tribunal Members:

Richard Mill (legal member) and Mike Links (ordinary member)

Introduction

1. Following the evidential hearing which took place on 18 May 2021, which involved the full participation of both parties, the Tribunal determined the application and issued its full findings and reasons by way of decision dated 21 May 2021. The Tribunal proposed the making of a PFEO and parties were provided 14 days after the date of intimation of the said decision to make comments. Neither party made any adverse comment regarding the terms of the proposed PFEO and by way of decision dated 9 June 2012 the PFEO was made, with the reasons for it.
2. By way of email application to the Tribunal dated 14 June 2021, the applicant submitted a request to extend the time for requesting permission to appeal, which acknowledges the period expires on 21 June 2021.

Decision on the applicant’s request

3. The application seeks to advance a number of the reasons as to why the applicant seeks additional time to make his application for permission to

appeal. He makes specific reference to, and founds primarily, upon events which have taken place subsequent to the evidential hearing which took place on 18 May 2021. In particular, he refers to a residents meeting which is said to have taken place on Thursday 10 June 2021. He makes various assertions about what happened at the meeting and by inference suggests that what did or did not happen provides a basis for him seeking permission to appeal the Tribunal's decision which is dated 21 May 2021. Such a basis for seeking permission to appeal, based upon events post hearing and post decision is erroneous. .

4. Any appeal to the Upper Tribunal for Scotland is on a point of law only. The Inner House of the Court of Session in the case of Advocate General for Scotland v Murray Group Holdings Limited [2015] CSIH 77 identified four different categories of case covered by the concept of an appeal upon a point of law: these are (i) an error of general law, the content of its rules; (ii) an error in the application of the law to the facts; (iii) making findings in fact without a basis in the evidence; and (iv) taking a wrong approach to the case by, for example, asking the wrong questions or taking account of manifestly irrelevant considerations, or by arriving at a decision that no reasonable Tribunal can properly reach". The applicant fails to set out any adverse comment on the Tribunal's decision of 21 May 2021 with reference to a point of law. The applicant refers to the subsequent residents meeting on 10 June 2021 and refers to further investigations which he wishes to make in light of that meeting. All of such matters and all of these proposed actions by the applicant are irrelevant to an appeal against the Tribunal's decision of 21 May 2021. Accordingly there is no merit in the applicant being afforded additional time to undertake these tasks.
5. In addition to the aforementioned main reason which the applicant relies upon for seeking an extension of the time for requesting permission to appeal, he otherwise states "... I am preoccupied with other more pressing concerns which concurrently demand my attention as follows:
 1. I am currently engaged in a legal battle since 4 years to resolve a contentious executry of my late parents, whereby the estate executor has misappropriated £700,000 assets.
 2. Since it is suspected that there has been embezzlement by elder financial abuse, I am liaising with banks and the Financial Ombudsman to conduct investigations into online fraud.
 3. As Police Scotland has twice closed investigations into this case, I must lodge a complaint against it with a view to having it reopened by the Economic Crime Unit – West of Scotland.
 4. The estate solicitor who also represents the executor of my late parents' estates is under investigation by the Law Society for malpractice – complaints which I must substantiate."

6. These other four reasons provided by the applicant relate to separate matters entirely from the application which was before the First-tier Tribunal and has been determined. The Tribunal does not find them relevant to any steps which the applicant seeks to take to appeal the Tribunal's decision. Such matters have not urgently or unexpectedly arisen.
7. The 2017 Rules of Procedure set out the overriding objective for the First-tier Tribunal which is to deal with the proceedings in a manner which includes avoiding delay, so far as compatible with the proper consideration of the issues.
8. The applicant has failed to give any proper or relevant reason as to why he requires an extension of the time for requesting permission to appeal. The Tribunal is not satisfied that the applicant has evidenced the required test of "on cause shown".
9. Furthermore, and in any event, all possible further issues which the applicant seeks to raise are irrelevant to an appeal to the Upper Tribunal. No points of law have been raised. The applicant's concerns relate to facts and circumstances which have arisen post decision.
10. The applicant would be entitled to bring fresh proceedings before the Tribunal in respect of any subsequent complaints he has against the respondent in respect of events post the Tribunal's decision.
11. The Tribunal notes that one of the applicant's complaints relate to the alleged refusal of the respondent to make payment to him of the sum of £500, now ordered by the Tribunal to be made to him in terms of component 1 of the PFE0 which was made on 9 June 2021. The Tribunal finds such assertion difficult to understand. The respondent has already evidenced, by way of three emails being sent to the applicant from their organisation of offers to make settlement of the £500 which the Tribunal requires to be made to the applicant. These emails were sent to the applicant to the respondent at 09:56 on 25 May 2021, at 09:32 on 1 June 2021 and 09:38 on 12 June 2021.
12. The request to extend the time for requesting permission to appeal is refused. The applicant may, if he wishes, lodge a permission to appeal application timeously, within the required 30 days, in which event the Tribunal will consider such application in further detail, if any. However, given the observations of the applicant's submissions to date, it does not seem that he has any relevant complaint against the Tribunal's decision and has no arguable point of law to insist upon.

Appeals

In terms of section 46 of the Tribunals (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.

to them.

Legal Member

Date: 16 June 2021