Housing and Property Chamber
First-tier Tribunal for Scotland

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/PF/20/1840

Re: 18 Foxglove Close, Edinburgh, EH16 4XX ("the Property")

Parties:

Mr Robert Kesson, 18 Foxglove Close, Edinburgh, EH16 4XX ("the Applicant")

Hillcrest Enterprises, I Explorer Road, Dundee, DD2 1ES ("the Respondent")

Tribunal Member: Martin J. McAllister (Legal Member)

The Tribunal rejects the application by the applicant dated 12th August 2020 being an application under section 17(1) of the Property Factors (Scotland) Act 2011.

The Applicant submitted an application with regard to the condition of the Property. Upon the Tribunal making enquiry, the Applicant advised that he did not own the Property but rented it from the Respondents.

Applications under Section 17(1) of the Property Factors (Scotland) Act 2011 ("the 2011 Act") require to be made by a homeowner as defined in the 2011 Act.

Section 10(5)(a) of the Property Factors (Scotland) Act 2011 states that a "homeowner" is "an owner of land used to any extent for residential purposes the common parts of which are managed by a property factor.."

In this application, the Applicant is not the owner of the Property and he rents it from the Respondents.

Accordingly the Tribunal has good reason to believe that it would not be appropriate to accept the application and rejects the application in terms of rule 8 (1) (c) of the Tribunal Rules.

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

Martin J. McAllister, Legal Member, 30th September 2020