



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/RP/21/3062

Re: 58 Morningfield Mews, Aberdeen, AB15 4ER ("the Property")

Parties:

Dr Jennifer South Palomares and Dr Amir Dehsani, 40 Queens Court, Inchmrie, Banchory, AB31 4GD ("the Applicants")

Dr Ian Dossett c/o Eastham Property Management, 44-46 Albert Street, Aberdeen, AB25 1XS ("the Respondent")

Tribunal Member: Martin J. McAllister (Legal Member)

The Tribunal rejects the application by the applicant dated 9TH December 2021 which is an application under Section 22 (1) of the Housing (Scotland) Act 2006 and Rule 48 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

1. The Law:

Section 22 (1) of the Housing (Scotland) Act 2006 states that:

"A tenant may apply to the First –tier Tribunal for determination of whether the landlord has failed to comply with the duty imposed by section 14 (1) (b)." The duty imposed by

section 14 is for a landlord to ensure that the house meets the repairing standard at all times during the tenancy.

2. The Applicants advised the Tribunal that they had left the Property on 27th September 2021 and produced copy email exchanges which appeared to suggest that the letting agent for the Property considered that the tenancy had ended on 19th October 2021.
3. The Applicants are no longer tenants. The application form is dated 9th December 2021 and, whether accepting the view of the Applicants or the Respondents as to when the tenancy terminated, it was not in existence on that date
4. The Applicants were not tenants when the application was submitted. The statutory provision is clear. An application requires to be submitted by a tenant not a former tenant or tenants.
5. 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.

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 McAllister

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