

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of Decision under Rule 38 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (contained in Schedule Part 1 of the Chamber Procedure Regulations 2017 (SSI No 328), as amended) ("the Procedure Rules") in relation to a request for permission to appeal under section 46(3)(a) of the Tribunals (Scotland) Act 2014

In connection with

Chamber File Reference number: FTS/HPC/LA/19/0755

Re: 134B Henderson Street, Bridge of Allan, FK9 4HF ("the Property")

The Parties:

- **Mr Barry Lanza and Mrs Margaret Lanza, Hala Rasi Jaya 8, House 3, Menglembu, Ipoh, Perak, Malaysia, 31450 ("Applicant")**
- **Belvoir Stirling Lettings, 79 Barnton St, Stirling, FK8 1HJ ("Respondent")**

Tribunal members: Eleanor Mannion (chairing legal member); Leslie Forrest (ordinary member)

1. DECISION

The Tribunal refuses permission to appeal on all grounds in terms of Rule 38 of the Procedure Rules. The decision of the Tribunal was unanimous.

2. BACKGROUND

- On 18th July 2019, the Tribunal made a determination under Section 48(1) of the Housing (Scotland) Act 2014 ("the Act") and produced a statement of decision ('the decision'). On 18th July 2019, the Tribunal issued its statement of decision.
- By letter dated 22nd July 2019 received by the Tribunal on the same date, the Applicant applied to the Tribunal for permission to appeal the decision. Section 2 of the Scottish Tribunals (Time Limits) Regulations 2016 provides that the application for permission to appeal must be received within 30 days

of the date the decision was sent to the Applicant. The application is timeous. Section 2(2) of the Scottish Tribunals (Time Limits) Regulations 2016 permits the Tribunal the Tribunal to extend the said period on cause shown.

- iii. Rule 37(2) of the Procedure Rules provides that the written application to the Tribunal for permission to appeal must:

- (a) identify the decision of the First-tier Tribunal to which it relates;
- (b) identify the alleged point or points of law on which the person making the application wishes to appeal; and
- (c) state the result the person making the application is seeking.

The letter identifies the Tribunal decision to which it relates but it does not state the result the Applicant is seeking and therefore Leave to Appeal is refused.

The letter also sets out 5 numbered grounds of appeal and one unnumbered ground of appeal. These grounds of appeal were explored in further detail in a 6 page document attached to the letter entitled "Basis of Appeal – laws of UK and Scotland".

Further information was provided by the Applicant on the 25th July 2019 which included information provided with his application considered at the hearing on 18th July 2019, the above entitled document "Basis of Appeal – laws of UK and Scotland" correspondence between the Applicant and the Irish Consulate in Edinburgh, part of a letter to the Applicant dated 4th August 1988 from an unknown sender, a certificate from the Supreme Grand Royal Arch Chapter of Scotland and correspondence between the Applicant and a Mark Birdsall dated 10th December 2001.

A further email was sent by the Applicant reiterating his grounds of appeal and stating that the Respondent failed to comply with the direction of the Tribunal made on the 18th July 2019 to repay the Applicant £75.

In terms of Rule 38 of the Procedure Rules, the Tribunal must determine whether to give permission to appeal on each ground.

3. GROUNDS OF APPEAL AND REASONS FOR DECISION

The Grounds of appeal founded upon by the Applicant are as follows:-

- i. The Tribunal ignored the Scottish and UK law.

It is clear that the Applicant disagrees with the application of the law by the Tribunal which found against his Application. It does not follow that the Tribunal has ignored the law. Further, the ground of appeal raises no point of law. Leave to appeal is refused.

- ii. The Respondent were not entitled to rent out the Property to the current tenants.

This ground of appeal refers to issues of fact only. The ground of appeal raises no point of law. Leave to appeal is refused.

- iii. There was no evidence of an agreement to a short term lease.

This ground of appeal refers to issues of fact only. The ground of appeal raises no point of law. Leave to appeal is refused.

- iv. Lack of evidence of landlord registration in October 2018 and March 2019

This ground of appeal refers to issues of fact only. The ground of appeal raises no point of law. Leave to appeal is refused.

- v. Failure to call witness

The Applicant was not present at the hearing on the 18th July 2019 and provided written submissions in advance for the Tribunal to rely on. The Applicant did not indicate that he wished to call a witness and no witness was present to speak to his application. The Respondent was in attendance and did not call a witness. The Tribunal made its findings based on the information before it. The ground of appeal raises no point of law. Leave to appeal is refused.

- vi. Political considerations of the ruling involving embassies

The ground of appeal raises no point of law. Leave to appeal is refused.

- vii. Failure by the Respondent to comply with direction of the Tribunal dated 18th July 2019

The Respondent sent the Tribunal a bank statement confirming that payment was made to the Applicant on the 5th August 2019 in line with their direction. This ground of appeal raises no point of law. Leave to appeal is refused.

APPEAL PROVISIONS

4. A party aggrieved by the decision of the tribunal may seek permission to appeal to the Upper Tribunal for Scotland on a point of law only. That party must seek permission to appeal within 30 days of the date the decision was sent to them. The request for permission to appeal must be in writing and you

may wish to consult the Scottish Courts and Tribunals Service website which includes an application form with information on the details required.

Chairing Legal Member of the Tribunal
Dated: 8th August 2019