

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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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

**Chamber Ref: FTS/HPC/LA/19/3682**

**Re: Property at 23 Rosewell Park, Aberdeen, AB15 6HT (“the Property”)**

### **Parties:**

**Mrs Kathleen Wattie, 23 Rosewell Park, Aberdeen, AB15 6HT (“the Appellant”)**

**Stonehouse Property, Osbourne House, 27-30 Carden Place, Aberdeen, AB10 1UP (“the Respondent”)**

### **Tribunal Members:**

**Ruth O'Hare (Legal Member)**

**Jane Heppenstall (Ordinary Member)**

### **BACKGROUND**

- 1 By application dated 18 November 2019, the Appellant sought a letting agent enforcement order against the Respondent due to alleged breaches of the Letting Agent Code of Conduct (“the Code of Conduct”).
- 2 In terms of a decision dated 17 November 2020 (“the Decision”) the Tribunal determined to make a Letting Agent Enforcement Order against the Respondent.
- 3 On 21 November 2020 and 22 November 2020 Mr Bryon Wattie, as representative for the Appellant, submitted five emails to the Tribunal, all with the email heading “FTS/HPC/LA/19/3682”. The first of those emails referred to a separate application for right of entry and did not relate to the present application. The second email was directed to the Legal Member and listed a number of areas in which the Appellant disagreed with the Decision, as well as questioning the Legal Member’s competence. The third and fifth emails were addressed to “the Senior Chairperson of the First Tier Tribunal” and appeared to be a complaint against the Legal Member’s conduct in respect of the present application and in relation to the conduct of another Legal

Member in a separate application. The fourth email was headed "THIS ALONG WITH THE EARLIER SUBMITTED E-MAILS CONSTITUTE OUR APPEAL TO THIS CASE". The Tribunal has therefore treated the second and fourth emails, which were received at approximately 5.10pm on 21<sup>st</sup> November 2020 and 1.45pm on 22<sup>nd</sup> November 2020 respectively, as the request for permission to appeal in this case.

- 4 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 Appellant. The application was therefore received timeously.

## **DECISION**

- 5 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.

## **REASON FOR DECISION**

- 6 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.

- 7 The aforementioned emails from Mr Bryon Wattie received on 21 November 2020 and 22 November do not raise any point of law upon which an appeal could be founded. The emails raise a number of issues in relation to the Decision which can be summarised as follows:-

- (i) *General objection to the Decision and the process followed by the Tribunal.*

The emails of 21 November 2020 and 22 November 2020 raise general objections to the manner in which the application was determined with disagreement expressed as to the Tribunal's findings in fact. The Appellant also alleges that the Tribunal falsified the record of the Hearing, colluded with colleagues dealing with separate applications involving the Appellant and was biased in favour of the Respondent. Those allegations are entirely refuted. For the avoidance of doubt, the decision of the Tribunal and its reasons are contained within the Decision, which is not a minute of the Hearing but a narration of the relevant matters taken into account in the Tribunal's determination of the application. The Decision is an accurate summary of what was said and decided at the Hearing. The assertions made by the Appellant in the application seeking permission to Appeal are unfounded and erroneous. The ground of appeal therefore raises no point of law upon which an appeal could proceed.

(ii) *It is not clear who made the decision.*

The Tribunal Members were introduced to parties at the Hearing. The names of both Members are noted on the first page of the Decision. The ground of appeal raises no point of law upon which an appeal could proceed.

8 (iii) *The Applicant has a hearing problem*

This issue, as outlined in the Appellant's email of 22 November 2020, appears to primarily relate to a separate application before the Tribunal under reference FTS/HPC/EV/20/0087. In respect of the present application the Tribunal confirmed both at the Hearing on 5 March 2020 and the Hearing on 21<sup>st</sup> October 2020 that the Appellant wished to be represented by Mr Bryon Wattie. At no point did the Appellant express concerns about an inability to hear the proceedings. If she had done so, the Tribunal would have considered what measures could be put in place to assist the Appellant. It should be noted that at various points during the Hearing on 21 October 2020 Mr Wattie consulted with the Appellant when seeking clarification on particular issues. The ground of appeal therefore raises no point in law upon which an appeal could proceed.


9 (iv) *The decision does not reflect the correct Applicant*

The application before the Tribunal under reference FTS/HPC/LA/3682 states the Applicant to be Mrs Kathleen Wattie. The decision reflects this. The ground of appeal raises no point of law upon which an appeal could proceed.

10 Accordingly leave to appeal is refused for the above reasons.

## **APPEAL PROVISIONS**

**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.**



Chairperson of the tribunal

**Legal Member and Chairperson of the Tribunal  
Dated: 18 January 2020**