



**DECISION AND STATEMENT OF REASONS OF MARTIN J. MCALLISTER,
LEGAL MEMBER OF THE FIRST-TIER TRIBUNAL WITH DELEGATED
POWERS OF THE CHAMBER PRESIDENT**

**Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property
Chamber Rules of Procedure 2017 ("the Rules")**

in connection with

67 (GF) Leamington Terrace, Edinburgh, EH10 4JT ("the Property")

Case Reference: FTS/HPC/LA/23/0433

Alfred Kollantisch ("the Applicant")

Dickins Edinburgh Ltd ("the Letting Agent")

1. The Applicant submitted an application to the Tribunal dated 10th February 2023 in terms of Section 48 (1) of the Housing (Scotland) Act 2014 ("the 2014 Act") and Rule 95 of the Rules. On 6th March 2023 the Tribunal issued a request for further information to the Applicant. The Applicant was asked to advise why he considered that it was appropriate for the Tribunal to consider the application since the matters complained of appeared to relate to holiday lets. The applicant was directed to the terms of Section 61 (1) of the Housing (Scotland) Act 2014. No response was received. On 28th March 2023, the Tribunal issued a further letter directing the Applicant to provide a response to the request and intimating that, if not received, the President may consider rejecting the application. No response has been received to either of the requests for information

DECISION

2. The Legal Member considered the application in terms of Rule 5 and Rule 95 of the Rules and Section 48 of the 2014 Act. Rule 5 provides: - (1) An application is held to have been made on the date that it is lodged if, on that date, it is lodged in the manner as set out in rules 43, 47 to 50, 55, 59, 61, 65 to 70, 72, 75 to 91, 93 to 95, 98 to 101, 103 or 105 to 111, as appropriate. (2) The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged in the required manner by assessing whether all mandatory requirements for lodgment have been met. (3) If it is determined that an application has not been lodged in the prescribed manner, the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, may request further documents and the application is to be held to be made on the date that the First-tier Tribunal receives the last of any outstanding documents necessary to meet the requirement manner for lodgment. “
3. **After consideration of the application the Legal Member considers that the application should be rejected in terms of Rule 8(1) (c) which states that an application must be rejected if the Tribunal has “good reason to believe that it would not be appropriate to accept the application.” The basis of the decision is that the Applicant has failed to comply with Rule 5 and Rule 95 and Section 48 of the 2014 Act.**

REASONS FOR DECISION

4. The Applicant’s application is in terms of Section 48 of the 2014 Act and Rule 95 of the Rules. It appeared from the application that the Respondent was managing holiday lets for the Applicant in respect of the Property.
5. Section 61 (1) of the 2014 Act defines letting agency work being done by a letting agent in connection with a landlord entering into, or seeking to enter into a “ lease or occupancy arrangement by virtue of which an unconnected person

may use the landlord's house as a dwelling." The Applicant has failed to demonstrate that the Respondent was carrying out letting agency work in respect of the Property.

6. The Applicant has failed to provide information, having been directed to do so in a request for further information by the Tribunal, in terms of Rule 5(3) of the Rules. The Legal Member therefore determines that the application cannot be accepted. The application is rejected on that basis.

What you should do now

If you accept the Legal Member's decision, there is no need to reply.

If you disagree with this decision –

An applicant aggrieved by the decision of the Chamber President, or any Legal Member acting under delegated powers, 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. Information about the appeal procedure can be forwarded to you on request.

Martin J. McAllister, Legal Member
2nd May 2023