



Decision and statement of Reasons of the First Tier Tribunal (Housing and Property Chamber)

Under Rule 8 (c) of the First Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('the Rules').

In respect of application by Alfie Mullender ("the Applicant") in terms of Rule 95 of the Rules.

Rory Laing ("the Applicant's Representative")

REDACTED ("the Letting Agent")

Case reference FTS/HPC/LA/25/0424

Address of Property: Unknown number, Holmlea Road, Glasgow, G44 4AL (the "Property").

At Glasgow on 13 June 2025, Martin Joseph McAllister, legal member of the First –Tier Tribunal for Scotland ("the Tribunal") with delegated powers of the Chamber President, rejected the above application in terms of Rule 8(1) (c) of the Rules.

- 1. This is an application by the Applicant in respect of complaints he has in relation to enforcement of the Letting Agent Code of Practice ("the Code") in respect of the Letting Agent's management of the Property. The Application is under Section 48 (1) of the Housing (Scotland) Act 2014 and is brought in terms of Rule 95 of the Rules.**
- 2. The application is dated 4 February 2025.**
- 3. The Applicant's Representative stated that he did know the exact address of the Property.**
- 4. The application states that it is considered that the Letting Agent engaged in discriminatory practice towards the Applicant by preventing him from viewing a property it was marketing for let.**

5. **The application states that the Applicant was not party to a tenancy agreement in which the Letting Agent managed.**
6. **The Tribunal sought clarity from the Applicant's Representative as to why he considered it competent for an application to be submitted by a person who was not a tenant and reference was made to the relevant statutory provisions contained in the Housing (Scotland) Act 2014.**
7. **On 7 May 2025, the Applicant's Representative replied and stated that the Letting Agent had engaged in discriminatory behaviour towards the applicant as it had prevented him viewing a property because he was in receipt of State Benefits. The letter from the Letting Agent referred to information on the Shelter Scotland website which stated that it would be discriminatory if a person was denied the option to enter a tenancy because they were receiving benefits. The letter stated that the Applicant's Representative considered that it was an obligation of the Tribunal to determine applications regarding alleged failure to comply with the Code.**

8. **The Law**

Section 48 of the Housing (Scotland) Act 2014

- (1) *A **tenant**, a landlord or the Scottish Ministers may apply to the First-tier Tribunal for a determination that a relevant letting agent has failed to comply with the Letting Agent Code of Practice.*
- (2) *A relevant letting agent is—*
 - (a) *in relation to an application by a tenant, a letting agent appointed by the landlord to carry out letting agency work in relation to the house occupied (or to be occupied) by the tenant,*
 - (b) *in relation to an application by a landlord, a letting agent appointed by the landlord,*
 - (c) *in relation to an application by the Scottish Ministers, any letting agent.*
- (3) *An application under subsection (1) must set out the applicant's reasons for considering that the letting agent has failed to comply with the code of practice.*
- (4) *No application may be made unless the applicant has notified the letting agent of the breach of the code of practice in question.*
- (5) *The Tribunal may reject an application if it is not satisfied that the letting agent has been given a reasonable time in which to rectify the breach.*
- (6) *Subject to subsection (5), the Tribunal must decide on an application under subsection (1) whether the letting agent has complied with the code of practice.*

(7) Where the Tribunal decides that the letting agent has failed to comply, it must by order (a “letting agent enforcement order”) require the letting agent to take such steps as the Tribunal considers necessary to rectify the failure.

(8) A letting agent enforcement order—

(a) must specify the period within which each step must be taken,

(b) may provide that the letting agent must pay to the applicant such compensation as the Tribunal considers appropriate for any loss suffered by the applicant as a result of the failure to comply.

(9) References in this section to—

(a) a tenant include—

(i) a person who has entered into an agreement to let a house, and

(ii) a former tenant,

(b) a landlord include a former landlord.

Decision

The application is rejected in terms of Rule 8 (c) of the Rules.

Reasons

9. The Tribunal is a creature of statute and, in relation to applications concerning the Code, it requires to have regard to the legal provisions contained in the Housing (Scotland) Act 2014.
10. The law is clear. Section 48 (1) of the 2014 Act states that a tenant can make an application for the Tribunal to make a determination that a letting agent has failed to comply with the Code. Section 48 (9) of the 2014 Act defines who a tenant is. The Applicant is not a person who has entered into an agreement to let a house or a former tenant.
11. Whether or not the Applicant has been subject to discriminatory behaviour is irrelevant in the context of the application before the Tribunal.

12. The application is rejected in terms of Rule 8(c) of the Rules. The Applicant is not a tenant or a former tenant.

NOTE: What you should do now.

If you accept this decision there is no need to reply.

If you disagree with this decision you should note the following:

An applicant aggrieved by this 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 seek permission to appeal within 30 days of the date the decision was sent them. Information about the appeal procedure can be forwarded on request.

Martin J. McAllister, Legal Member, 13 June 2025