



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 92(2) of the Antisocial Behaviour etc. (Scotland) Act 2004 (“the 2004 Act”)**

**Chamber Ref: FTS/HPC/GL/25/1762**

**Parties:**

**Mr Muhammad Ilyas Anwar, 16 Higherness Way, Coatbridge, ML5 5FL (“the Applicant”)**

**Renfrewshire Council, Licensing Section, Finance & Resources, Renfrewshire House (Cotton Street), Paisley, PA1 1TT (“the Respondent”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member)**

**Decision**

**[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) refuses the application and declines to make an order requiring the local authority to enter the Applicant in the register maintained by it under Section 82(1) of the 2004 Act.**

[2] The Application called for a Case Management Discussion by conference call at 10am on 2 April 2026. The Applicant was personally present. The Respondent was represented by their own Mr Collins, solicitor.

[3] There had been a previous CMD which in part had been adjourned to allow the principal agent to appear for the Respondent. A Direction had also been made ordering parties to lodge any authorities or representations addressing the time-bar issue which was raised by the Respondent as a preliminary matter at the previous CMD.

[4] The Tribunal began by enquiring whether parties were ready to proceed to address the matter or whether there were any further preliminary matters. Parties were content to get started.

### **Respondent's submissions.**

[5] Where a local authority decides to refuse to register a person in the landlord register, the decision may be appealed to the First-tier Tribunal under Section 92(1)(a) of the Act. No provision is made under Section 92, or any other part of the Act, as to the period in which an appeal is to be made to the First-tier Tribunal. Accordingly, the provision of Rule 5A of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (hereinafter referred to as the "Tribunal Rules"), apply.

Rule 5A provides that:

*"(1) This rule applies where no time limit for making an application is prescribed by or under another enactment.*

*(2) Where the application relates to a right of appeal from any decision the application must be lodged with the First-tier Tribunal, in accordance with rule 5, within 21 days after the date on which notice of the decision to which the application relates was sent to the applicant"*

[6] In determining whether this appeal is in time the lodging date must first be identified.

Reference is made to Rule 5(3) of the Tribunal Rules which provides:-

*"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 required manner for lodgement."*

[7] Mr Collins submitted that the last outstanding document was received by the First-tier Tribunal on 14 May 2025 and accordingly, in terms of Rule 5(3), the lodging date of this appeal was 14 May 2025.

[8] Mr Collins submitted that in order for the appeal to be in time, the date the appeal was lodged must be no later than 21 days after the date on which notice of the decision to which the appeal relates was sent to the applicant. It was submitted that the word "sent" in Rule 5A(2) of the Tribunal Rules should be read in conjunction with Section 86 of the 2004 Act. Section 86 of the 2004 Act sets out the way in which notification of the authority's decision to refuse entry to the landlord register is to be provided to the

applicant, any person acting on behalf of the applicant in relation to the rental of their properties and any potential tenants effected by the authority's decision.

[9] A distinction is made in section 86 between the way in which notification is to be provided to the applicant and the way in which it is to be provided to any other person that the authority is required to notify.

In relation to the former, section 86(1) provides:

*"Where a local authority-*

*(a) (b) enters a person in its register under paragraph (a) of section 84(2); or refuses to enter a person in its register under paragraph (b) of that section or subsection (7) or (8) of section 84 ,*

*the authority shall, as soon as practicable after doing so, give notice of the fact to the person"*

In relation to the latter, section 86(2) provides:

*"Where a local authority refuses to enter a person in its register under section 84(2)(b), (7) or (8), the authority shall, as soon as practicable after doing so, send notice of the fact to-*

*(a) each address specified by virtue of paragraph (b) of section 83(1) in the application for registration; and*

*(b) if, by virtue of paragraph (c) of section 83(1), the application specified the name and address of a person, that person."*

[10] Mr Collins submitted that the means by which an authority can provide notice of its decision to applicants under section 86 of the 2004 Act are, by virtue of the use of the term "give notice", wider than those in relation to others who are to be "sent notice" of the authority's decision. It is further submitted that the authority can satisfy the requirement to "give notice" of its decision by providing verbal confirmation to an applicant.

[11] In terms of Rule 99(a)(iv) of the Tribunal Rules, all that is required in order for an application to be made to the First-tier Tribunal in relation to an authority's decision to refuse entry to the landlord register, is for the application to state: *"the decision of the local authority and the date the person was notified of that decision"*. This, Mr Collins contended, is to allow for the circumstances in which an authority gives notice of its decision orally to the applicant.

[12] Mr Collins pointed out that The Applicant's application for landlord registration was determined at a meeting of the Respondent's Regulatory Functions Board on 27 March 2025. The Applicant was present at the meeting and was given notice at the meeting of the Respondent's decision to refuse his application for landlord registration. He was also advised by the legal adviser at the meeting that he had a right to appeal the Respondent's decision to the First-tier Tribunal. It is submitted, in terms of section 86(1) of the 2004 Act,

that notice of the Respondent's decision was given to the Applicant on 27 March 2025, that no further notification was required to be given to him under and in terms of section 86 of the 2004 Act and, accordingly, for the purposes of Rule 5A of the Tribunal Rules, that notification of the Respondent's decision should be regarded as having been sent to the applicant on this date.

[13] Accordingly, Mr Collins submitted that the Applicant had until 18 April 2025 to make an application to appeal the Respondent's decision. It was pointed out that the Applicant first submitted his appeal to the Tribunal on 24 April 2025 which was accepted as lodged by the Tribunal on 14 May 2025. By whichever date the Tribunal determines as the date on which the appeal was lodged, it was submitted that the appeal had been lodged outwith the period specified in Rule 5A of the Tribunal Rules.

[14] Mr Collins went on to submit that if the Tribunal are of the view that the giving of oral notification does not meet the requirements of Rule 5A of the Tribunal Rules, then it is the Respondent's position that the appeal is nevertheless out of time as a result of the Applicant being notified of the Respondent's decision by letter dated 27 March 2025.

[15] Following the Respondent's decision to refuse the Applicant's registration, a letter was prepared by the Board's Committee Clerk on the same day (27 March 2025) on behalf of the Respondent's Head of Corporate Governance, notifying the Applicant of the Respondent's decision. The letter was sent by first class post. It was submitted that this letter constitutes notification of the Respondent's decision being sent to the Applicant. It is further submitted that the Applicant had until 18 April 2025 to make his application to appeal the Respondent's decision. As above, It is noted that the Applicant first submitted his appeal to the Tribunal on 24 April 2025 and was accepted as lodged by the Tribunal on 14 May 2025. Mr Collin's position was therefore by whichever date the Tribunal determines as the date on which the appeal was lodged, it is submitted that the appeal has been lodged outwith the period specified in Rule 5A of the Tribunal Rules.

[16] In terms of Rule 3(3) of the Tribunal Rules it is incumbent upon the Respondent to assist the Tribunal to further the overriding objective set out under Rule 2. While there is no explicit provision within the Tribunal Rules to allow a late appeal to proceed, neither is there any express provision prohibiting such. If the Tribunal considers the appeal to have been lodged late, then it may wish to consider, as a preliminary matter, whether it is able to extend the period set out under Rule 5A by virtue of Rule 16A(a), which allows the Tribunal to regulate its own procedure including extending or shortening the time for complying with any rule or order, but only in so far that such a power is subject to the provisions of housing legislation, the Tribunals Act and the Tribunal Rules.

[17] Mr Collins argued that should the Tribunal determine that the period in which an appeal may be made can be extended by Rule 16A, then the grounds on which an

extension may be granted would require to be determined and thereafter consideration given as to whether the Applicant meets those grounds.

### **Applicant's submissions**

[18] The Applicant simply said that he didn't receive the letter. He made no other comment disputing the Respondent's analysis of the law or presentation of the facts. He accepted that the letter had been correctly addressed to him and that he had received other letters sent to him by the Respondent without difficulty. The Respondent made no argument that the Tribunal should exercise any discretion to allow the Appeal although late.

### **Decision**

[19] The Tribunal accepts the Respondent's analysis of the law. The Tribunal also notes that there a presumption in law that a letter that is posted is received. The Tribunal determined that the Appeal was submitted out of time and therefore refused the Application. The Appeal was submitted when the last necessary document was received by the Tribunal was 14 May 2025. The Applicant had until 18 April 2025 to submit his appeal. No satisfactory reason was given as to why the Appeal should be allowed late or how that might be competent.

### **Right of Appeal**

In terms of Section 92(5) of the 2004 Act, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland. The appeal must be made within the period of 21 days beginning with the day on which the decision appealed against was made.

Section 92(6) of the 2004 Act provides that the decision of the Upper Tribunal on an appeal is final.

**Andrew McLaughlin**

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Legal Member/Chair

30 April 2026  
Date