



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 26 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Chamber Ref: FTS/HPC/RE/22/1148

Re: 51/1 Pittville Street, Edinburgh, EH15 2BX ("the Property")

Parties:

Places for People Scotland Ltd, 1 Hay Avenue, Edinburgh, EH16 4RW ("the Applicant")

Touchstone Property Management 4 Hay Avenue, Edinburgh, EH16 4RW ("the Applicant's Representative")

Ms Sacha Callaghan, 51/1 Pittville Street, Edinburgh, EH15 2BX ("the Respondent")

Tribunal Member: Martin J. McAllister (Legal Member)

The Tribunal rejects the application by the applicant dated 20th April 2022 which is an application under Section 28 A(1) of the Housing (Scotland) Act 2006 ("the Act") and Rule 55 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules").

Background

1. The Applicant's Representative was asked on 19th May 2022 to provide further information to enable the application to be considered. The request for information was in terms of Rule 5 (3) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules").
2. The information requested was clarity with regard to ownership of the Property, identity of the landlord and the status of the landlord given that, in terms of

Section 28 A (9) of the Housing (Scotland) Act, it is not possible for a social landlord to make an application under Section 28 A(1) of the said Act.

3. On 30th May 2022, the Applicant's Representative advised that the "Property not social housing it is market rent." The letter also stated that Places for People is the trading name of Castle Rock Edinvar Housing Association.
4. On 17th June 2022, the Tribunal asked for further information and, on 1st July 2022, the Applicant's Representative said that there was a Head Lease in place in respect of the Property.
5. On 25th July 2022, the Tribunal asked for information on the parties to the Head Lease and stated that the information should be provided by 8th July 2022.
6. The Tribunal sent a further letter to the Applicant's Representative on 10th August 2022 stating that, if information was not provided by 17th August 2022, the President may reject the application.
7. The Tribunal has not been provided with the information which has been requested.

Reasons

8. The Legal Member considered the application in terms of Rule 5 and Rule 55 of the Chamber Procedural Rules. 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. "

- 9. 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 of the Rules and Section 28 A (4) of the Act.**

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal 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

Martin J. McAllister

Legal Member

29th August 2022