

Housing and Property Chamber

First-tier Tribunal for Scotland



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/PF/24/3450

Property: Flat 3/1, 11 Melrose Gardens, Glasgow G20 6RB (“the Property”)

The Parties:-

Dr Michael Ratcliffe, Flat 3/1, 11 Melrose Gardens, Glasgow G20 6RB (“the homeowner”)

Ross & Liddell Limited, registered in Scotland (SC097770) and having their registered office at 60 St Enoch Square, Glasgow G1 4AW (“the property factors”)

Tribunal Members:

George Clark (Legal Member/Chairman) and David Godfrey (Ordinary Member)

Decision

The Tribunal refuses the Tenant’s application for permission to appeal its Decision of 1 October 2025 in terms of Rule 38 of the Procedure Rules.

Background

1. On 4 September 2025, following a Case Management Discussion held on 19 August 2025, the Tribunal made a Decision that the property factors had failed to comply with OPSP11 of the Property Factors Code of Conduct effective from 16 August 2021 and intimated that it proposed to make a Property Factor Enforcement Order.
2. On 1 October 2025, the Tribunal refused a request by the homeowner for the Tribunal to Review its Decision of 4 September 2025.
3. On 15 October 2025, the homeowner sought permission to appeal the Tribunal’s Decision of 1 October 2025.

4. The homeowner contended that the Tribunal had erred in law in its application of Rule 39 of the First-tier tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 by refusing to consider additional expert evidence which directly addressed an evidential gap identified in Paragraph 51 of the Tribunal's original Decision. The Tribunal had treated the material as impermissible "new evidence" instead of considering whether, in the interest of justice, it should be admitted for the limited purpose of supporting its own findings of breach and the consideration of common works costs. He stated that this procedural error had denied him a fair opportunity to have relevant and material evidence considered.

Reasons for Decision

5. Section 46(2) (b) of the *Tribunals (Scotland) Act 2014* provides that an appeal is to be made on a point of law only. Section 46(3) of that Act provides that an appeal requires the permission of the First-tier Tribunal. Section 46(4) of that Act provides that such permission may be given in relation to an appeal under this section only if the First-tier Tribunal or (as the case may be) the Upper Tribunal is satisfied that there are "arguable grounds for appeal". Permission to appeal must be sought within 30 days of the Decision being appealed against being sent to the appellant.
6. Rule 37 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that an application for permission to appeal a Decision of the Tribunal 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 Tribunal accepted that the homeowner had identified the Decision to which the application for permission to appeal relates and that he had identified the point of law on which he wished to appeal and the result he was seeking.
8. The Tribunal noted that, at the Case Management Discussion, both Parties agreed that the Tribunal could determine the application without a full evidential Hearing. It was for the homeowner to make his case, and the Tribunal's view was that, through extensive written submissions and the Case Management Discussion, the homeowner had had a full opportunity to do so. He had not provided evidence that the work to the Property cost more or that the dry rot was more extensive as a result of

delays on the part of the property factors. It would not be in the interests of justice to allow the homeowner to enter, after the Tribunal had determined the application, new evidence that he could have produced in his written submissions or at the Case Management Discussion.

9. The Tribunal does not consider that it has erred in its application of Rule 39 of the 2017 Regulations or that there are arguable grounds for appeal. Leave to appeal is, therefore, refused.

10. The Tribunal's Decision was unanimous.

Right of Appeal

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.

Legal Member

Dated 23 October 2025