

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision by the Convener with Delegated Powers of the Chamber President

Under Rule 39(1) of the Schedule 1 to the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) (Regulations) 2017 ('the 2017 rules')

Re: Application to First-tier Tribunal made under Section 17 of the Property Factors (Scotland) Act 2011 and Rule 43 of the 2017 rules

Chamber Reference Number: FTS/HPC//PF/19/2316

Re: 83C Tower Drive, Gourock PA19 1TD

Parties:

**Mr Gary Millar (the homeowner)
Riverclyde Homes (the property factor)**

Decision

I have decided on review of the homeowner's application that the original decision to reject the application issued on 8 November 2019 should be set aside.

Background

An email was received on 12 November 2019 from the homeowner requesting permission to appeal the decision to reject his application which was issued on 8 November 2019. In exercise of my delegated powers under Section 23A of the Housing (Scotland) Act 2006, I have decided to review that decision at my own instance in terms of rule 39 (1) of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017, as I consider this to be necessary in the interests of justice.

Reasons for the decision

The reason why the decision is being reviewed is that it appears that the dispute to which the application relates has not in fact been resolved. The homeowner indicates in his email that the matter is still ongoing.

In his email of 12 November, the homeowner states that he did not respond to the tribunal's emails of 29 August and 8 October 2019 because these were requesting the same information asked for in the tribunal's email of 6 August 2019.

I note that the homeowner had provided some of the information requested in the email of 6 August 2019 on 15 August 2019. In fact, the emails of 29 August, 13 September and 8 October asked the homeowner to provide some further information which had been requested in the 6 August email, but not provided. There appears therefore to have been a misunderstanding as to what information was being requested from the homeowner.

As my decision of 8 November 2019 only requires to be notified to the homeowner in terms of rule 8 of the 2017 regulations, there are no other parties involved at this stage. I do not therefore consider that there is any requirement to notify the parties in writing in terms of rule 39(4) and 39(7) of the regulations.

My decision on the review of your application is that the original decision to reject your application should be set aside. Your application will therefore now be considered in terms of rule 5 of the regulations to ensure that it meets the requirements for making an application, and then and in terms of rule 8 of the regulations, as to whether it should be rejected.

Because I have decided to review the decision and set it aside, I do not intend to make a decision on your request for permission to appeal the decision.

A decision of the First-tier Tribunal to review an application cannot be appealed or reviewed.

Yours sincerely

Sarah O'Neill
Convener
Legal member of the First-tier Tribunal for Scotland (Housing and Property Chamber)