



DECISION OF SHERIFF DAVID BICKET
ON AN APPLICATION TO APPEAL

in the case of

APEX PROPERTY FACTOR LIMITED, 46 Eastside, Kirkintilloch, Glasgow, G66 1QH,
per Mr Neil Cowan

Appellant

and

WILLIAM TWEEDIE, 2 Kilnwell Quadrant, Motherwell, ML1 3JN

Respondent

FTT Case Reference FTS/HPC/17/0223

Decision

Having considered the appellant's application for permission to appeal the First-tier Tribunal's decision of 14 May 2018 to refuse leave to appeal the Tribunal's decision under section 19(3) of the Property Factors (Scotland) Act 2011 dated 5 March 2018, refuses same for the reasons undernoted.

Statement of Reasons

[1] The unanimous decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) was that the appellant's application which was dated 16 April 2018 was

not made within the stipulated time period as specified in Rule 37(2) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The statement of reasons given to the appellant clearly set that out, at paragraphs 10 to 13 thereof, and it is unnecessary to reiterate these here as they correctly state the legal basis for that refusal. Regulation 2(2) of the Scottish Tribunals (Time Limits) Regulations 2016/231 permits a First-tier Tribunal **on cause shown** to extend the period beyond 30 days if it considers such an extension to be in the interests of justice. No reason whatsoever appears to have been advanced by the appellant as to why the application was submitted late.

[2] If a Tribunal is to extend a period fixed by regulation the person who applies to the Tribunal out of time must justify being allowed to do so. There must be material on which the Tribunal can exercise its discretion otherwise the purpose of a time limit would be subverted. To allow an appeal against the decision of a Tribunal to refuse to extend the period beyond 30 days where no cause has been shown for doing so in my view would be inappropriate. There is importance in keeping to a timetable so that proceedings are finite and I am unable to fault the reasons given by the First-tier Tribunal in refusing permission to appeal because the application was submitted late with no reasons given why the 30 day period should be extended.

[3] The Tribunal also refused the appellant's permission to appeal because the appellant did not clearly specify which Tribunal decision it was seeking permission to appeal as required by Rule 37(2)(a) of the 2017 Rules. Had that been the only matter on which permission to appeal was refused I would have taken the view that by implication the application to appeal inferred that it was the Tribunal's decision of 5 March 2018 that permission to appeal was sought and would have allowed matters to proceed.

[4] Additionally however to allow such an appeal I would have to be satisfied that there were arguable grounds for it to be heard.

[5] The First-tier Tribunal took the view that the appellant did not identify the alleged point or points of law on which it wished to appeal in relation to the decision complained of as required by Rule 37(2)(b) of the 2017 Rules and I agree with their view in this regard. The alleged points of law which are listed as “grounds of appeal” seem to me, as stated by the First-tier Tribunal, to relate to evidential matters rather than any alleged point or points of law. In any event insufficient detail of any point or points of law sought to be argued is included.

[6] For the foregoing reasons therefore permission to appeal against the decision of the First-tier Tribunal is refused.

Sheriff David Bicket

Member