



DECISION NOTICE OF SHERIFF IAN H L MILLER

ON AN APPLICATION TO APPEAL

in the case of

THOMAS WILLIAM LAIRD, 48 Southbrae Gardens, Jordonhill, Glasgow, G13 1UB

Appellant

and

JAMES GIBB PROPERTY MANAGEMENT, 65 Greendyke Street, Glasgow, G1 5PX

Respondent

**FT Case Reference FTS/HPC/PF/18/3301**

18 October 2019

**Decision**

The appellant's application for leave to appeal to the Upper Tribunal is refused because he has been unable to identify a point of law.

**Introduction**

[1] By decision dated 22 July 2019 the First-tier Tribunal (Housing and Property Chamber) (the FtT decision) decided that the appellant as the owner of three flats within Balgray Court, 33 Cleveden Drive, Glasgow (the Property) had failed to establish that the respondents as factors of the Property had breached their duty to comply with any part of

the Code of Conduct for Property Factors (the Code) in terms of section 14(5) and section 17(1)(b) of the Property Factors (Scotland) Act 2011 (the 2011 Act) and that he had failed to establish that the respondents had acted in breach of their duties in terms of section 17(1)(a) of the 2011 Act in relation to any of the twelve headings or issues narrated in the FtT decision. Accordingly the FtT decided not to issue a Property Factor Enforcement Order in respect of the appellant's application.

[2] The appellant sought leave to appeal to the Upper Tribunal against the FtT decision. He did that under and in terms of rule 37 of the 2017 Procedure Rules. The FtT considered that application for leave and issued its decision, dated 30 July 2019 (the leave to appeal decision) which was that the FtT refused permission to appeal. The ground of that decision was that the appellant had failed to identify any point of law which could form the subject matter of an appeal (paragraph 5). The FtT also observed that the appellant had attempted to provide further evidence and offered to provide further documentation none of which constituted a point of law (paragraph 6).

### **Grounds of appeal**

[3] The appellant now seeks the leave of the Upper Tribunal to appeal against the leave to appeal decision. He has done that by application in Form UTS-1 dated 9 September 2019. He has set out his reasons for requesting an appeal in paragraph 7 of the Form.

### **Discussion**

[4] The FtT concluded that the information which the appellant placed before it in support of his request for leave to appeal had failed to identify any point of law. That decision was the correct one on the material before it.

[5] The question now is whether the additional information which he has provided in paragraph 7 of the Form identifies a point of law. The information is couched in terms that are occasionally hard to follow but what does come through clearly is that it consists of a statement of facts and circumstances on which the appellant wishes to found. As such I cannot find amongst them any identifiable point of law and furthermore I cannot infer from them any identifiable point of law.

[6] Accordingly I must refuse the application for leave to appeal to the Upper Tribunal.

### **Conclusion**

[7] For the reasons given above the appellant's application for leave to appeal to the Upper Tribunal is refused on the ground that he has been unable to identify a point of law which the Upper Tribunal could be called upon to consider.