



**FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

P:PAPERREMOTE

Case Reference : **CAM/34UF/HEP/2021/0003**

Property : **9 Cartmel Place
Northampton
NN3 2AW**

Applicant : **Mr Robert Kaniu**

Represented by : **In person**

Respondents : **West Northamptonshire Council**

Represented by : **Mrs Ruksana Munir, solicitor**

Type of Application : **Application for permission to appeal**

Tribunal Members : **Tribunal Judge Stephen Evans
Mr John Francis**

**Date and venue of
Hearing** : **27 April 2022
Wellingborough Magistrates Court**

**Date of original
decision** : **23 May 2022**

Date of this decision : **29 June 2022**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote decision. The form of remote decision is P: PAPERREMOTE. A face-to-face hearing was not held because this is an application for permission to appeal. The documents before the Tribunal are contained in the original hearing bundles, plus a letter from Mr Kaniu seeking permission to appeal.

DECISION

- 1. The Tribunal determines that it will not conduct a review pursuant to rules 53 and 55 of the First-tier Tribunal (Property Chamber) Rules 2013 because it is not satisfied that a ground of appeal is likely to be successful.**
- 2. The Tribunal further determines that permission to appeal be refused, as there are no reasonable prospects of success and no other reason why an appeal should be heard.**
- 3. In accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007 and rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the applicant may make further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission to appeal.**
- 4. The Upper Tribunal (Lands Chamber) may be contacted at: 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (tel: 020 7612 9710); or by email: lands@hmcts.gsi.gov.uk .**

REASONS

1. The Applicant, by his application filed on 20 June 2022, seeks permission to appeal firstly on the ground that the Tribunal was wrong in its interpretation of “service” as contained within the Record of Delegation. The ground does not have real prospects of success, nor is there any other compelling reason to grant permission to appeal. This was a matter for the

Tribunal of interpretation of the instrument. The Applicant's reference to the European Courts' interpretation of the word "service" and/or the Civil Procedure Rules 1998 is of no assistance to the Tribunal in this regard.

2. Yet further, the Applicant overlooks the Tribunal's decision that, even if it were wrong on its finding that service means the signing of the documents and not the administrative act of sending them, any excess of power by the Respondent was truly minimal, such that the Tribunal should not quash the EPO. In so finding, the Tribunal does not understand the Applicant to have been saying that he had not received the necessary documents at the relevant time. All that the 2004 Act requires is that there is "service" of the EPO on the owner and occupier. The Applicant had in fact received them, and in the Tribunal's determination he had been duly served.
3. As for the second ground of appeal, that there is no imminent danger because the Property is unoccupied and will not be re-let until the Applicant has corrected any hazard requirements, the Tribunal noted in paragraph 96 that there was no challenge to the Council's assessment of Category 1 hazards. The only reason the Property was not occupied was because the Council had moved the tenant out as an emergency measure. There was no cogent evidence before the Tribunal of a surrender of the tenancy of that tenant. We cannot see that an appeal can be successful simply because the Applicant's actions have effectively driven the tenant out of occupation temporarily.
4. The Tribunal's inspection was not an examination of the Property, still less a structural survey. The Appellant's contention that he jumped several times up and down on the bathroom floor was not evidence. The evidence before the Tribunal was that the Applicant had concealed the state of the floor before the inspection and the hearing, and by his own admission the Applicant had undertaken no works in relation to the rot to the flooring or the bearing of the joists, which the Tribunal accepted existed.
5. The ground has no real prospects of success and there is no compelling reason for an appeal.
6. As for the third ground of appeal, the Tribunal received and accepted evidence from Ms Ling that Mr Emaiike had delegated powers to sign the Statement of Reasons: see paragraph 58. The Act does not require the officer signing the EPO and the Statement of Reasons to be one and the same.
7. The Tribunal's reasons for not finding the Statement of Reasons a nullity are adequately set out in paras. 82 and the next paragraph 75 (sic).

8. The ground has no real prospects of success and there is no compelling reason for an appeal.
9. The fourth ground of appeal is that a notice of entry must be served on the owner, otherwise the procedure is rendered invalid. The Applicant is merely rehearsing an argument which he did or could have raised. The Tribunal's reasoning for dismissing the ground of appeal is clear and fully explained, from paragraphs 66 to 71 of the decision.
10. The ground has no real prospects of success and there is no compelling reason for an appeal.
11. The last ground of appeal is not one which is contained in the original appeal against the EPO. In any event, there is nothing in the point. The Tribunal was alluding to the fact that despite actual notice of the state of the Property after receiving the improvement notice, the Applicant took no action. The fact that the Improvement Notice may or may not have been served validly at law was not a matter which the Tribunal needed to decide in these proceedings.
12. This ground has no real prospects of success and there is no compelling reason for an appeal.
13. For all the above reasons the Tribunal declines to review its decision or grant permission to appeal.

Judge:

S J Evans

Date:

29/6/22