



DECISION NOTICE OF SHERIFF MILLER

ON AN APPLICATION FOR PERMISSION TO APPEAL (DECISION OF
FIRST-TIER TRIBUNAL FOR SCOTLAND)

in the case of

MR JOHN GARRETT, 553 Mossspark Drive, Mossspark, Glasgow, G52 1QP

Appellant

and

YOUR PLACE PROPERTY MANAGEMENT LIMITED, Wheatley House,
25 Cochrane Street, Glasgow, G1 1HL

Respondent

FTT Case Reference FTS/HPC/PF/19/0680

28 February 2020

[1] In this application the appellant has by way of Form UTS-1 dated 14/11/2019 requested the Upper Tribunal to reconsider the decision of a member of the Upper Tribunal dated 15 January 2020 to refuse permission to appeal against the decision of the First-tier Tribunal dated 28/09/2019, the First-tier Tribunal having also refused permission by decision dated 08/10/2019.

[2] The Upper Tribunal administration arranged the date, time and venue of an oral hearing at which the appellant's request could be heard by another member of the Upper

Tribunal. It was scheduled for Friday 28/02/2020 at 10:00 a.m. within the Glasgow Tribunal Centre, 20 York Street, Glasgow G2 8GT.

[3] The Upper Tribunal administration intimated that hearing to the appellant by letter dated 04/02/2020.

[4] The purpose of the hearing is governed by Rule 3(7) of the Upper Tribunal for Scotland (Rules of Procedure) Regulations 2016. That provides so far as relevant to these proceedings:

“When the Upper Tribunal, without a hearing refuses permission to appeal..... the appellant may make a written application.....to the Upper Tribunal for the decision to be reconsidered at a hearing.”

[5] That rule makes it clear that it is the decision to refuse permission that is under consideration. The hearing is not concerned with reviewing or reconsidering the First-tier decision of 28/08/2019 or the First-tier decision of 08/10/2019.

[6] Within an email dated 20/02/2020 and sent to the Upper Tribunal administration the appellant mentioned the prospect of postponing the oral hearing. He progressed that to a formal request for postponement in his emails to the Upper Tribunal administration dated 24/02/2020 and 25/02/2020.

[7] The Upper Tribunal administration sent copies of these emails to me on 26/02/2020 as the member of the Upper Tribunal allocated to preside over the oral hearing. I considered them and the reasons he expressed to support his request.

[8] I concluded that I wanted him to attend the hearing and give him the chance to submit reasons for requesting the adjournment, and that if I refused the adjournment I would require him to proceed with the merits of the oral hearing.

[9] The Upper Tribunal administration conveyed my thinking to the appellant by emails dated 26/02/2020 and 27/02/2020. The email of 26/02/2020 stated *inter alia*, “The member has

advised that if you wish to seek an adjournment of the hearing on the day then you may submit reasons for this at the hearing. The email of 27/02/2020 stated *inter alia*, "Any question in relation to the postponement can be addressed at tomorrow's hearing."

[10] By email dated 27/02/2020 and timed at 11:39 the appellant intimated that he would not attend the oral hearing.

[11] The appellant has not attended the Glasgow Tribunal Centre for the oral hearing, neither at the time appointed for the hearing nor later in the morning.

[12] In these circumstances the Upper Tribunal has to consider what to do with the application. One available option is to dismiss the appellant's application in whole. That can be done in the exercise of the discretion given to the Upper Tribunal by Rule 10(2). Before exercising that power the Upper Tribunal must first implement Rule 10(3) and give the appellant an opportunity to make representations in relation to the proposed dismissal.

[13] In conformity with and in furtherance of that requirement I must give the appellant that opportunity. Accordingly I make an order that he should set out, in writing, his representations in relation to the proposed dismissal, and that within 7 days of receipt of this decision.

[14] On receipt of these representations by the Upper Tribunal administration I will make my decision in light of them. If the appellant chooses to make no representations I will take that into account when making my decision on whether or not to dismiss the application in whole.