



DECISION OF

Sheriff O'Carroll

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

Mr Iain Jackson, 29 Craigmount Gardens, Edinburgh, EH12 8EB
per Mr Derek Jackson,
29 Craigmount Gardens, Edinburgh, EH12 8EB

Appellant

- and -

Hacking and Paterson Management Services, 103 East London Road, Edinburgh, EH7 4BF

Respondent

FTS case reference FTS/HPC/PF/22/2047

15 February 2023

Decision

Leave to appeal is refused; the appeal is dismissed.

Introduction and reasons

1. This is an application by the applicant for leave to appeal against the decision of the First Tier Tribunal for Scotland (“the FTS”) dated 24 November 2023 which dismissed his claims that the respondent had breached the Property Factors Code. That FTS refused leave to



appeal against its own decision on 22 December 2022. The applicant now renews its application for leave to appeal directly to this Tribunal which appeal was timeously made in writing.

2. On 15 February, this Tribunal held a hearing by Webex to determine whether leave to appeal would be granted. The Appellant was represented by his father Derek Jackson. The Appellant himself played no part in this hearing. The respondent was not required to attend the hearing. At the hearing, the representative rehearsed similar arguments to those which were advanced before the FTS, those put in writing to the FTS and those which were put in writing to this Tribunal. As the representative put it in his communication to this Tribunal, he requests that the Upper Tribunal “take a fresh look at the facts”, stating that the FTS conclusions were “a complete distortion of the facts” and that the FTS decisions were “not based on real facts or proof of the facts”. In essence the Appellant seeks to re-argue the same contentions as were placed before the FTS at first instance (and on review) and on the application for leave to appeal, because he does not accept the conclusions on the facts by the FTS.
3. That is not the function of this Upper Tribunal which is to decide whether the FTS has erred in law in some fashion. No error of law is propounded by the Appellant who manifestly wants a fresh hearing on the facts. This Tribunal has no power to order that, absent a finding that the FTS has erred in law in some way.
4. I have nonetheless examined the FTS decision of 22 November 2023 in the light of all the submissions of the Appellant in order to determine whether any argument could reasonably be advanced that the FTS has in some way erred in law in reaching the conclusions that it did. In my view, on that fresh examination of that FTS decision, informed by the contentions of the Appellant, it cannot sensibly be argued that the FTS erred in law in reaching the decision that it did. It was a decision that it was entitled to reach on the evidence before it. The FTS has not misunderstood the evidence before it. It has given intelligible reasons. It has correctly understood the law and has not misapplied the law to the facts. The fact that the Appellant disagrees with the conclusions that the FTS

Upper Tribunal for Scotland



has reached on the material before it is not an argument in support of an error of law having been committed. The FTS also correctly refused leave to appeal to this Tribunal for the reasons given by it in its decision of 22 December 2022. This appeal is therefore dismissed.

Member