



DECISION NOTICE OF SHERIFF IAIN FLEMING

ON AN APPLICATION TO APPEAL

in the case of

MR JARNAIL SINGH TUMANI, 584 Cathcart Road, Glasgow, G42 8AB

per AQA Properties Limited, 584 Cathcart Road, Glasgow, G42 8AB

Appellant

and

MR LOVAHEM M'SABEN ALI, 11 Craigie Street, Flat 2/2, Glasgow, G42 8NG

Respondent

FTT Case Reference FTS/HPC/RP/18/2531

29 October 2020

Decision

[1] The Upper Tribunal dismisses the appeal.

Introduction

[2] The Appellant lodged an appeal against a decision of the First-tier Tribunal dated 10 February 2020. He did so by lodging a Form UT1. Therein he stated and identified that he had been granted permission to appeal to the Upper Tribunal by the First-tier Tribunal. He later specified that the permission to appeal had been granted on 28 February 2020. The

appellant requires to provide a copy of the document which granted permission to appeal. He has not done so, despite numerous requests to do so. In failing to provide the said permission to appeal the appellant is in breach of rule 3(3) (c) of the Upper Tribunal for Scotland (Rules of Procedure) Regulations (hereafter “the regulations”). Without permission to appeal from the First-tier Tribunal the current appeal is incompetent in terms of the regulations.

[3] The appellant has been contacted on occasions by the Upper Tribunal and asked to provide the documentation referable to the stated permission to appeal granted by the First-tier Tribunal. The appellant most recently was contacted by the Upper Tribunal by email on 18 August 2020. He was advised that he required to provide the document containing permission to appeal from the First-tier Tribunal of 28 February 2020 to the Upper Tribunal by 15 September 2020. The appellant was advised that in the event that he did not provide the required documentation the Upper Tribunal would consider dismissal of his appeal. The appellant has not provided the required notice of permission to appeal from the First-tier Tribunal.

[4] In terms of rule 10(2) of the regulations the Upper Tribunal noted that the appellant had failed to comply with an order which stated that failure to comply with said order may lead to the dismissal of the proceedings. The Upper Tribunal is disentitled to dismiss an appeal without providing the appellant with an opportunity to make representations in relation to the proposed dismissal. The Upper Tribunal consequently considered dismissal of the appeal and gave notice to the appellant that it was considering dismissal of the appeal. The appellant was given formal notice of same and invited to make representations in relation to the considered dismissal. The formal notice advised that in the event that the

appellant did not make representations by 22 October 2020 the Upper Tribunal will consider dismissal of the proceedings in the absence of the said representations.

[5] No representations have been received from the appellant. In the circumstances the appellant being in breach of Rule 3 (3) (c) of the regulations and he having been advised that the Upper Tribunal was considering dismissal of the proceedings consideration is now given to dismissal of the proceedings in the absence of any representation from the appellant. It is clear to the Upper Tribunal that the appellant is either unable or unwilling to provide necessary documentation to allow his appeal to proceed. The absence of the documentation is fundamental to the process of the appeal and without it the appeal cannot proceed. The appellant has been advised that the Upper Tribunal was considering dismissal of the appeal and has elected to make no representations in relation thereto. In the circumstances the appeal is dismissed.