



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

Case reference : **CAM/11UB/HMH/2023/0001**

HMCTS code : **P:PAPERREMOTE**

Property : **46 Curlew, Aylesbury, HP19 0WG**

Applicant : **Mr Nnaji Ahunanya**

Respondent : **Fairhive Homes Ltd**

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

Tribunal members : **Judge Wayte**

Date of Decision : **11 December 2023**

DECISION

Decision

1. The Tribunal has considered the Applicant's request for permission to appeal to the Upper Tribunal Lands Chamber dated 10 July 2023 and determines that:
 - a. It will not review its Decision; and
 - b. Permission be refused for appeal to the Upper Tribunal Lands Chamber.

2. The Applicant may make a further application for permission to appeal directly to the Upper Tribunal (Lands Chamber). Any such application must be made 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.
3. Where possible, any further application for permission to appeal should be made online using the Upper Tribunal's online document filing system, called CE-File. This will enable the Upper Tribunal to deal with it more efficiently and will enable the parties to follow the progress of the application and submit any additional documents quickly and easily.
4. Information about how to register to use CE-File can be found by going to the following web address:

[https://www.judiciary.uk/wp-content/uploads/2021/07/Practice-Note-on-CE-filing-Lands-Chamber-17.6.21 .pdf](https://www.judiciary.uk/wp-content/uploads/2021/07/Practice-Note-on-CE-filing-Lands-Chamber-17.6.21.pdf)
5. Alternatively, it is possible to submit an application for permission to appeal by email to: Lands@justice.gov.uk.
6. The Upper Tribunal can also be contacted by post or by telephone at: Upper Tribunal (Lands Chamber), 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (Tel: 020 7612 9710).

Reasons

7. The relevant provisions in respect of appeals are set out in the Practice Directions of the Upper Tribunal (Lands Chamber) dated 19 October 2020 (the "Practice Directions") which can be found at the following link:

<https://www.judiciary.uk/guidance-and-resources/upper-tribunal-lands-chamber-practice-directions/>
8. Paragraph 10.14 of the Practice Direction provides that permission to appeal will be granted if the Tribunal considers that the proposed appeal has a realistic prospect of success, unless the sum or issue involved is so modest or unimportant that an appeal would be disproportionate. Permission to appeal may also be granted if the Tribunal considers there is some other good reason for an appeal.
9. This application for a Rent Repayment Order was struck out by a decision dated 23 October 2023. Unfortunately, there is a typographical error on the first page which refers to rule 9(2)(d) of the Tribunal Procedure Rules. The rule is actually 9(3)(e), as stated in paragraph 20. A corrected copy of the decision is attached. For the avoidance of doubt, rule 50 permits any clerical error to be amended at any time by sending a copy of the amended document to each party.
10. The Applicant's Grounds of Appeal dated 20 November 2023 are lengthy and somewhat repetitive. In summary, they challenge the decision on the basis

that relevant evidence has been ignored or given insufficient weight and that the case should not have been struck out without a hearing.

11. Taking the procedural point first, rule 31 is clear that a tribunal may dispose of proceedings without a hearing under rule 9. By letter dated 5 September 2023 the Applicant was given an opportunity to make representations in respect of the proposed strike out and the date for those representations was extended by a further letter dated 26 September 2023 which enclosed copies of the evidence provided by the Respondent's solicitors. The Applicant made extensive representations in response, all of which were taken into account.
12. While the Applicant claims there are disputed facts, those relate to whether a possession order should have been made and the circumstances of the eviction by court bailiffs. Neither can be reopened by this application.
13. The Applicant also now states that he was "made not to pay rent", having previously failed to respond to the request by the tribunal for a list of the rent paid by him (as opposed to by housing benefit) and failed to challenge the Respondent's evidence that no rent had been paid at all since 1 April 2019. This application was made against Fairhive Homes who took over the housing stock of Bucks HA on 9 January 2023. The Applicant was evicted on 10 January 2023. In any event, only two day's rent would have been payable (at most), which would not have justified a RRO even if the Applicant could prove the relevant offences and that he had paid the rent. Given the background to this application, the tribunal was fully entitled to conclude that the application was vexatious or otherwise an abuse of the process of the tribunal.
14. The relevant evidence that the Applicant states the tribunal ignored or gave insufficient weight is also largely focussed on the background to the possession proceedings and the eviction. Again, this seeks to reopen the possession order which is not within the jurisdiction of this tribunal. The Applicant has also already sought to bring a private prosecution against Fairhive, which was dismissed by the District Judge. The tribunal was entitled to take this into account in coming to its decision that the application for a RRO against them had no reasonable prospect of success.
15. In the circumstances the Tribunal does not consider that there is any realistic prospect of a successful appeal in this case. The Tribunal also does not consider that there is any other good reason for an appeal and therefore permission to appeal is refused.