



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

|                                    |          |                                                                                                                       |
|------------------------------------|----------|-----------------------------------------------------------------------------------------------------------------------|
| <b>Case reference</b>              | <b>:</b> | <b>CAM/22UK/RTB/2025/0002</b>                                                                                         |
| <b>Property</b>                    | <b>:</b> | <b>34 Warwick Drive, Maldon, Essex,<br/>CM9 6BP</b>                                                                   |
| <b>Applicants (Tenant)</b>         | <b>:</b> | <b>Joanne-Marie Tibbs</b>                                                                                             |
| <b>Respondents<br/>(Landlords)</b> | <b>:</b> | <b>Moat Housing Association.</b>                                                                                      |
| <b>Type of application</b>         | <b>:</b> | <b>Refusal of Right to Buy - Paragraph<br/>11 of Schedule 5 of the Housing Act<br/>1985 (as amended) (“the Act”).</b> |
| <b>Tribunal member(s)</b>          | <b>:</b> | <b>Mary Hardman FRICS IRRV(Hons)</b>                                                                                  |
| <b>Date of decision</b>            | <b>:</b> | <b>15 April 2025</b>                                                                                                  |

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**DECISION**

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**Background**

1. Miss Joanne-Marie Tibbs (‘the Applicant’) of 34 Warwick Drive, Maldon, Essex, CM9 6BP(‘the Property’) is the tenant of Moat Housing Association(‘the Respondent’).
2. The Applicant made an application to the Respondent under the Right to Buy legislation in the Housing Act 1985 (‘the Act’) to buy the Property and, on 13 November 2024, the Respondent replied with a counter notice denying the right to buy stating ‘in order to qualify you need to have a secure tenancy agreement.’

3. The Applicant made an application to the tribunal on 6 January 2025 on an application form for a determination as to whether the property is suitable for occupation by elderly persons.
4. The tribunal then wrote to the tenant on 26 February 2025 to explain that the tribunals jurisdiction only extends to refusals on the basis that the house is suitable for occupation by elderly persons and as the tenant had been refused because they did not have a secure tenancy agreement, it appeared as though the tribunal did not have jurisdiction to determine the application.
5. The tribunal received an email from the tenant on 3 March 2025 in response. They stated that they had previously been a secure tenant at a different property, under a previous housing association. The tenant also states that under schedule 11 paragraph 5 of the Housing Act 1985, four criteria have to be met for the refusal and not all of these have been met. However, the provisions that the tenant has referred to are those under schedule 5 paragraph 10 of the Housing Act 1985.
6. It appeared as though an administration error meant that the respondent was not sent some of the tribunal letters or a copy of the application form and enclosures, so the tribunal sent a copy of all of these to the respondent and asked for them to make any representations in response by 1 April 2025. The tribunal did not receive anything from the respondent.

## **The Hearing**

7. This hearing has been determined on the papers provided, as no request for a hearing was received by either party

## **The Law**

8. The relevant provisions in respect of jurisdiction of the Tribunal are found in Paragraph 11 of Schedule 5 to the Housing Act 1985.

*11 (1) the right to buy does not arise if the dwelling house –*

*11 (1A) is particularly suitable, having regard to its location, size, design, heating system and other features, for occupation by elderly persons, and*

*11 (1B) was let to the tenant or a predecessor in title of his for occupation by a person who was aged 60 or more (whether the tenant or predecessor or another person)*

*11 (3) states that notwithstanding anything in section 181 (jurisdiction of county court), any question arising under this paragraph shall be determined as follows*

*11(4) If an application for the purpose is made by the tenant to the [the appropriate tribunal] before the end of 56 days beginning with the*

*service of the landlords notice under section 124, the question shall be determined by [the appropriate tribunal]*

*11(5A) in this paragraph the appropriate tribunal means the First-tier Tribunal or, where determined by or under Tribunal Procedural Rules, the Upper Tribunal.*

9. In short, this tribunal only has jurisdiction to determine applications that relate to the legislation above, that is the local authorities decision to refuse the right-to-buy based on the property being suitable for elderly people.

### **The Tribunal's Decision**

10. The tribunals jurisdiction only extends to applications that have been refused on the basis that the property is suitable for elderly people.

11. This application has been refused on the basis that the tenant does not hold a secure tenancy.

12. The tribunal therefore has no jurisdiction to determine the right to buy and the tribunal strikes out the application

**Mary Hardman FRICS IRRV(Hons)  
Regional Surveyor**

### **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), on a point of law only, then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e., give the date, the property, and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).