

Decision with Statement of Reasons of Karen Moore, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber), under Rule 8 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Case reference FTS/HPC/EV/23/2743

Parties

Mrs Margaret Boyd (Applicant)

Liene Rozite and Vic Henderson (Respondent)

Property Angels Letting & Management Ltd (Applicant’s Representative)

71 Mount Annan Drive, Glasgow, G44 4RX (House)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be dismissed on the basis that it would not be appropriate to accept the application in terms of Rule 8(1)(c).

Background

1. The application was received by the Tribunal under Rule 109 on 14 August 2023.
2. The application was considered by the Tribunal and further information was requested by emails of 30 August, 28 September and 14 November all 2023 as follows: *“Please now let us know if you wish to proceed with this application and if so provide:- 1.Evidence of service of the section 11 notice on the local authority. 2. Your comments on why the Tribunal should provide permission to proceed on the basis of a ground for eviction which is not noted on the Notice to Leave, please note this is a matter that will be discussed and dealt with at the CMD if your application is accepted and it is at the Tribunal’s discretion if they allow another ground of eviction to be included. If you wish to rely on ground 1A, you should produce evidence of financial hardship such as a letter of advice from an approved money advisor, debt advice service, or independent financial advisor or other evidence such as income and outgoings, showing how your client is suffering financial hardship. If you wish to proceed on ground 1 and or Ground 1A please provide evidence of your client’s intention to sell for example a letter of engagement with a solicitor or estate agent. Please reply within 14 further days or be advised that it is likely your application will be rejected.”*

3. The further information, being proof that the statutory procedure had been followed, is essential to the consideration of the acceptance of the application. The Applicants were advised that lack of response might mean that the application would be rejected in terms of Rule 8 of the Rules. No response was received to the emails.

Reasons for Decision

4. The Tribunal considered the application in terms of Rule 8 of the Chamber Procedural Rules. That Rule provides:- *"Rejection of application 8.-(1) The Chamber President or another member of the First-tier Tribunal under the delegated powers of the Chamber President, must reject an application if- (a) they consider that the application is frivolous or vexatious; (c) they have good reason to believe that it would not be appropriate to accept the application; (2) Where the Chamber President, or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, makes a decision under paragraph (1) to reject an application the First-tier Tribunal must notify the applicant and the notification must state the reason for the decision."*
5. Rule 109 of the Rules provides that an application for an eviction order must be accompanied by (i) proof that the eviction ground has been met, (ii) a copy of the statutory Notice to Leave and (iii) and a copy of the statutory Notice under Section 56 of the Act. In this case, the Applicants have failed to provide all of the required documentation. The Tribunal cannot grant the application without this information.
6. The Tribunal consider that there is good reason why the application cannot be accepted. Accordingly, the application is rejected.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Legal Member

Date

3 January 2024