



Decision and statement of Reasons of the First Tier Tribunal (Housing and Property Chamber)

Under Rule 8 of the First Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ‘the Rules’.

In respect of application by Mr Craig Murray in terms of rule 111 of the Rules.

Case reference FTS/HPC/CV/23/4491

At Glasgow on the 29 February 2024, Lesley Anne Ward, legal member of the First –Tier Tribunal ‘the Tribunal’ with delegated powers of the Chamber President, rejected the above application in terms of Rule 8(1) (a) and (c) of the Rules

1. This is an application by Mr Craig Murray, ostensibly in terms of rule 111 for civil proceedings arising out of a private residential tenancy agreement. The application was made on 14 December 2023.
2. The application was incomplete and the Tribunal wrote to the Applicant on 14 December 2023 as follows:

The following further information is required from you before your application can proceed to the Chamber President for consideration: • Tenancy agreement • evidence to support the application • a copy of any relevant document Please reply to this office with the necessary information by 21 December 2023, otherwise the application may be rejected.
3. The Applicant responded on 25 December 2023 by sending a copy of a private residential tenancy agreement.
4. The in-house convenor reviewed the application and the Tribunal wrote to the Applicant on 29 January 2024 seeking further information as follows:

A Legal Member of the Tribunal with delegated powers of the Chamber President has now considered your application and the copy tenancy agreement submitted by you in response to a previous further information request.

It is noted that you have submitted an application under Rule 111 which is where a payment order is sought either by the landlord against a tenant or vice versa, arising from a tenancy situation. However, in your application you explain that you are seeking to appeal against being evicted from the tenancy property, which appears to be due to your landlord's mortgage lender repossessing the property. This is not a matter that the Tribunal can deal with under a Rule 111 application. You are also seeking to make the application against Alston Law and not your landlord but have not explained why this is appropriate.

Whilst the Tribunal cannot provide you with legal advice in this matter, the Legal Member who has considered your application recommends that you seek legal advice as a matter of urgency from a solicitor or housing advice organisation as it may be that you require to become involved in the repossession proceedings which appear to be ongoing at court, rather than applying to this Tribunal. You may wish to consider withdrawing this application and perhaps submitting a fresh application, if appropriate, once you have had the benefit of legal advice. Please respond within 14 days to confirm your intentions and if you are wishing to withdraw this application, as, otherwise, it appears likely that this application will require to be rejected. Please reply to this office with the necessary information by 12 February 2024.

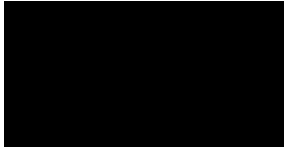
5. The Applicant responded on 31 January 2024 stating "I contacted you after being advised to do so by CAB I will seek further legal advice. The reason I have not named the landlord is that he is not in contact regarding this matter at all".
6. The Tribunal have heard nothing further from the Applicant.
7. Rule 8(1)(a) of the Rules allows an application to be rejected by the Chamber President if ***"they consider that an application is vexatious or frivolous"***.
8. "Frivolous" in the context of legal proceedings is defined by Lord Justice Bingham in R-v- North West Suffolk (Mildenhall) Magistrates Court (1998) Env.L.R.9. At page 16 he states:- "What the expression means in this context is, in my view, that the court considers the application to be futile, misconceived, hopeless or academic".
9. I consider that this application is frivolous or vexatious and has no reasonable prospect of success as it does not appear to relate to rule 111. It is possible that the Applicant is being evicted by a heritable creditor in the Sheriff Court. Further, in terms of Rule 8(c) of the rules I have good reason to consider that it would not be appropriate to accept this application as the Applicant has not made a substantive response to a detailed request for information of 29 January 2024 and has failed to cooperate with the Tribunal in the execution of its duties.

NOTE: What you should do now.

If you accept this decision there is no need to reply.

If you disagree with this decision you should note the following:

An applicant aggrieved by this decision of the Chamber President or any legal member acting under delegated powers 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 seek permission to appeal within 30 days of the date the decision was sent them. Information about the appeal procedure can be forwarded on request.



Lesley Anne Ward

Legal Member