



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 Ecosse Estates Limited in terms of Rule 65 of the Rules.

Case reference FTS/HPC/EV/19/0662

At Glasgow on the 24 April 2019, 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 i

1. This is an application by Ecosse Estates Limited, the owners of the property at 2/1 110 Knapdale Street Glasgow G22 6PD ‘the property’, for recovery of possession of the property in terms of Rule 65. The application was made by Mr Brian Caplan of Ecosse Estates Limited on 1 March 2019.
2. The application is accompanied by the following:-
 1. Short assured tenancy agreement for let of the property for 6 months from 3 October 2016.
 2. AT5 form dated 3 October 2013.
 3. Rent arrears schedule.
 4. AT6 dated 1 February 2019.

3. The tribunal wrote to Mr Caplan on 4 March 2019 as follows:

The following further information is required from you before your application can proceed to the Chamber President for consideration:

A copy of the notice given to the local authority as required under section 19A(1) of the 1988 Act, which states:

“Notice under subsection (1) above shall be given in the form and manner prescribed under section 11(3) of the Homelessness etc (Scotland) Act 2003 (asp10)”.

Please reply to this office with the necessary information otherwise the application may be rejected.

4. No reply was received. The tribunal wrote a further letter on 26 March 2019 requesting this information again. The tribunal on 26 March 2019 also asked for evidence of service of the AT6 notice. The information was requested by 9 April 2019. No reply was received.
5. 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”***.
6. “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”.
7. I consider that this application is frivolous or vexatious and has no reasonable prospect of success as the essential information required for it to proceed has not been provided despite reminders sent by the tribunal. 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 it is incomplete.

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

Lesley Anne Ward

Legal Member