



**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 Kelvin Pate in terms of Rule 66 of the Rules.

**Case reference FTS/HPC/EV/22/0995**

At Glasgow on the 26 May 2022, 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 Kelvin Pate for eviction proceeding in connection with a short assured tenancy agreement in terms of rule 66 of the tribunal rules. The application was made on 4 April 2022.
2. The application was accompanied by the following:
  - (a) Tenancy agreement.
  - (b) Notice to quit.
  - (c) S33 notice.
  - (d) AT5.
  - (e) S11 notice to local authority.
3. The application was not complete as there were pages missing. The tribunal wrote to the applicant on 21 April 2022 as follows:

*‘Your application has been assessed by a legal member who has requested the following information or documentation:*

1. *There is an additional tenant mentioned on the lease and in the notices. If you intend to proceed against this tenant, please amend the application form to include the second tenant as a Respondent.*

2. *The application form submitted appears to be missing pages. Please submit a full application form.*
3. *Please provide evidence of service of the notice to quit and section 33 notice on the Respondent(s).*
4. *Please provide evidence of service of the section 11 notice on the local authority.*
5. *You will be expected to address the Tribunal at the case management discussion on the reasonableness of granting an order for possession.'*

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4. The applicant did not respond to the letter.
5. As things stand, the application form is incomplete and there is no evidence of service of the notices.
6. 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”***.
7. *“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”*.
8. 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 a detailed request sent by the tribunal several weeks ago. 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 and the applicant has failed to cooperate with the tribunal in the execution of its duties.
9. It is open for the applicant to resubmit a complete application with proof of service of the notices.

**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.

# L Ward

Lesley Anne Ward

Legal Member