



Decision Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”)

Chamber Ref: FTS/HPC/PR/19/1443

Re: Property at 3 Lochranza Court, Motherwell, ML1 4FJ (“the Property”)

Parties:

Dr Usman Qureshi (“the Applicant”)

David Brown (“the Respondent”)

1. On 6 May 2019, an application was received from the Applicant. The application was made under Rule 109 of the Chamber Procedural Rules being an application for an order for recovery of possession.
2. On 22 May, 11 June, 2 July, 30 July and 23 August all 2019 the Applicant was requested to provide clarification about the application, to provide proof of service in accordance with the terms of the contract; and evidence of service. The final correspondence from the tribunal office advised that this information should be provided by 6 September 2019, failing which the President may decide to reject the application.
3. While there had been a response on the 12 July 2019 from the Applicant's agent, it did not address the issue raised and requests for further information had therefore been issued seeking evidence of service of the notice to leave in accordance with the terms of the tenancy agreement. No further response was received from the Applicant's agents since their email of 12 July 2019.

DECISION

4. I considered the application in terms of Rule 8 of the 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;
- (b) the dispute to which the application relates has been resolved;
- (c) they have good reason to believe that it would not be appropriate to accept the application;
- (d) they consider that the application is being made for a purpose other than a purpose specified in the application; or
- (e) the applicant has previously made an identical or substantially similar application and in the opinion of the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, there has been no significant change in any material considerations since the identical or substantially similar application was determined.

(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. After consideration of the application, the attachments and correspondence from the applicant, I consider that the application should be rejected on the basis that I have good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

REASONS FOR DECISION

6. The Tribunal has requested further information and evidence to support the application from the applicant. This information and evidence has not been provided. The applicant has not provided evidence of service of the notice to leave in accordance with the tenancy agreement.
7. I consider that the applicant's failure to provide evidence to support the application, as requested by the Tribunal, gives me good reason to believe that it would not be

appropriate to accept the application in circumstances where the applicant is apparently unable to do so in order to progress this application.

8. Accordingly, for this reason, this application must be rejected upon the basis that I have good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

What you should do now

If you accept the Legal Member's decision, there is no need to reply.

If you disagree with this decision:-

An applicant aggrieved by the 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 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. Information about the appeal procedure can be forwarded to you on request.

Melanie Barbour
Legal Member/Chair

23/09/2019
Date

