



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 Mrs Myra Dunsmore in terms of Rule 65 of the Rules.

Case reference FTS/HPC/EV/19/3488

At Glasgow on the 9 December 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.

1. This is an application by Mrs Myra Dunsmore in terms of Rule 65 of the rules. The application was dated 25 October 2019 and received by the Tribunal Administration on 31 October 2019.
2. The application was accompanied by the following:-
 1. Short assured tenancy agreement
 2. Portion of AT6
 3. Termination agreement
 4. Notice to quit.
 5. Rent schedule.

3. The tribunal wrote to the application 13 November 2019 as follows:

Before a decision can be made we need you to provide the following:

- i. Please provide a full copy of the Form AT6 served on the tenant together with evidence of service.*
- ii. Please provide a copy of the notice given to the local authority in terms of section 11 of the Homelessness (Scotland) Act 2003.*

iii. *Part 5 of your application does not state the specific ground of repossession being relied upon- please confirm.*

Please reply to this office with the necessary information by 27 November 2019. If we do not hear from you within this time the President may decide to reject the application.

4. No reply has been 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 for the reasons given above.
8. 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. This application is not complete. The essential requirements of rule 65 have not been complied with. The applicant has not responded to a request from the tribunal for further information.

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