



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

Under Rule 5 and 8 of the First Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 'the Rules'.

In respect of application by Mr Ion Radu in terms of Rule 109 of the Rules.

Case reference FTS/HPC/CV/22/0274

At Glasgow on the 31 March 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 5(2) and 5(8) and 8(1)(a) and (c) of the Rules;

1. This is an application by Mr Ion Radu. The application appears to be an application to recover rent arrears arising out of a private residential tenancy ('PRT') however rule 109 is given in the application, rather than rule 111 of the tribunal rules. The application was made on 1 February 2022.
2. The tribunal wrote to the applicant on 1 February 2022 asking him to clarify if the address for the respondent is the same as the property address. The applicant did not respond.
3. The tribunal sent a further email to the applicant on 28 February 2022 as follows:

1. Please confirm the address of the Property is the same address as the Respondent; 2. Please provide a rent statement detailing date and amounts due, date and amounts paid and running total of arrears; 3. You have produced bank statements. These will be crossed over to the Respondent once your application has been accepted. If you do not wish this to happen please either request the statements to be withdrawn or provide redacted versions. Please provide the information requested within 14 days failing which your application will be refused.

4. The applicant did not respond.
5. I am rejecting this application as it is incomplete and does not meet the requirements of rule 5. The chamber must manage proceedings in accordance with the overriding objective contained in rule 2 and in particular the tribunal should avoid delay so far as compatible with the property consideration of the issues. The applicant has an obligation to assist the chamber in furthering that objective in terms of rule 3 and he has not responded to reasonable requests for further information.
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 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

Legal Member