



**DECISION AND STATEMENT OF REASONS OF MARTIN J.MCALLISTER
LEGAL MEMBER OF THE FIRST-TIER TRIBUNAL WITH DELEGATED
POWERS OF THE CHAMBER PRESIDENT**

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

in connection with

2/2,162 Curle Street, Glasgow, G140TT ("the Property")

Case Reference: FTS/HPC/EV/22/1889

Jagjit Singh ("the Applicant")

Dean Mathieson ("the Respondent")

1. An application, dated 10th May 2022, was received from the Applicant by the First –tier Tribunal for Scotland, Housing and Property Chamber ("the FTT"). The application was made under Rule 109 of the Rules.
2. The Application stated that recovery of the Property was sought under Grounds 1,11 and 14 of Part 1,Schedule 3 of the Private Housing (Tenancies) (Scotland) Act ("the 2016 Act")
3. On 4th July, 1st August and 12th September, all 2022, the FTT wrote to the Applicant on a number of matters and sought responses. Some responses were received but did not fully address the issues raised by the FTT.
4. The letter sent to the Applicant by the FTT on 12th September 2022 detailed

fundamental issues with the application:

4.1 The Applicant no longer owned the Property which had been transferred to Properties Tomorrow Limited, a limited company. The Applicant's representations on the matter were that, as he owned that company, he was entitled to raise the application. The Applicant had been asked for evidence of any contractual arrangements which existed between him and the limited company which may have allowed the application to be made. No evidence was forthcoming.

4.2 The incorrect period of notice had been inserted in the Notice to Leave which had been served on the Respondent. The Applicant had been asked to make submissions as to why this did not strike at the validity of the application. No submissions were received by the FTT.

5. The letter of 12th September 2022 stated that, if the Applicant did not respond to the request for further information by 26th September 2022, the President may consider rejecting the application. The applicant did not respond to the letter of 12th September 2022.

DECISION

6. I considered the application in terms of Rules 5 and 8 of the Procedural Rules.

Rule 5 provides

(1) An application is held to have been made on the date that it is lodged if, on that date, it is lodged in the manner as set out in rules 43, 47 to 50, 55, 59, 61, 65 to 70, 72, 75 to 91, 93 to 95, 98 to 101, 103 or 105 to 111, as appropriate.

(2) The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged in the required manner by assessing whether all mandatory requirements for lodgement have been met.

(3) If it is determined that an application has not been lodged in the prescribed manner, the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, may request further documents and the application is to be held to be made on the date that the First-tier Tribunal

receives the last of any outstanding documents necessary to meet the required manner for lodgement.

Rule 8 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."

7. After consideration of the application, the attachments and correspondence from the Applicant, I consider that the application should be rejected in terms of Rule 8 (c) of the Rules of Procedure on the basis as the Tribunal

has good reason to believe that it would not be appropriate to accept the application.

REASONS FOR DECISION

8. The Applicant was asked for further information which he did not provide.
9. The information requested was essential for the Tribunal to make a decision as to whether or not to admit the application for determination. On the face of it, inadequate notice had been given to the Respondent who had not been given adequate notice of the ground for possession of the Property.
10. It is not considered that the Applicant had right, title and interest to raise the application. Tomorrow Properties Ltd is a legal person separate from its shareholders.
11. The Applicant had failed to provide information having been required to do so in terms of Rule 5 (3) of the 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.

Martin J. McAllister,
Legal Member
First-tier Tribunal
2nd November 2022