



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 David Learmonth in terms of rule 109 of the Rules.

Case reference FTS/HPC/EV/3512

At Glasgow on the 13 March 2023, 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) (c) of the Rules

1. This is an application by Mr David Learmonth for eviction in terms of rule 109 of the Rules. The application was made on his behalf on 23 September 2022 by Craig Scott of Rentolease.
2. The inhouse convenor reviewed the application and the Tribunal wrote to the Applicant’s representative on 25 October 2022 seeking further information as follows:

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

- (1). Although the letter accompanying the Notice to Leave is dated 30th May 2022, the email serving the Notice on the Respondent is dated 30th June 2022. If the Notice was served on 30th May 2022, please provide evidence of this. If the Notice was not served upon the Respondent until 30th June 2022, you may wish to consider withdrawing the application and making a further application, having served a further Notice to Leave and ensuring that the Respondent is provided with the correct period of notice.
- (2). Please provide written authorisation from the Applicant authorising you to make the application on their behalf.
- (3). Please provide evidence of landlord registration.
- (4). Please confirm whether the Applicant has complied with the Rent Arrears Pre Action Requirements (Coronavirus) (Scotland) Regulations 2020 and provide evidence of this, if available. Please note that compliance will be taken into

account when the Tribunal assesses whether it is reasonable to grant the order.' Please reply to this office with the necessary information by 8 November 2022. If we do not hear from you within this time, the President may decide to reject the application.

3. No response was received. The Tribunal sent a further request for information on 16 December 2022 as follows:

In order for the Tribunal to be able to process your application further please provide the undernoted information /documentation: Please now provide the information and documentation requested in the Letter of the Tribunal dated 25 October 2022. We enclose a further copy of the letter for ease of reference. If you wish to withdraw the application please do so in writing. If you wish the application to progress, please provide the requested information. Please be advised that if you do not reply on this occasion the Tribunal will consider that you are not insisting on the application and will consider rejecting the application. This is a decision that will be entered into the public register of decisions. Please reply to this office with the necessary information by 30 December 2022. If we do not hear from you within this time, the President may decide to reject the application.

4. No response was received and the Tribunal sent a reminder on 31 January 2023. No reply has been received.
5. The Tribunal can reject an application in terms of Rule 8(c) if they have good reason to believe that it would not be appropriate to accept it. As things stand the Applicant's representative has failed to provide evidence that he is instructed in this matter. He has also failed to respond to the request for further information. I therefore have good reason to consider that it would not be appropriate to accept this application as it is incomplete and the Applicant's representative has failed to cooperate with the Tribunal in the execution of its duties.

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 Ward

Lesley Anne Ward

Legal Member

