



**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 Alban Bartley-Jones in terms of rule 78 of the Rules.

**Case reference FTS/HPC/PR/23/2872**

At Glasgow on the 2 October 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) a) of the Rules

1. This is an Application by Mr Alban Bartley-Jones for in terms of rule 78 of the Rules. The Application was made on 20 August 2023.
2. It was not clear from the terms of the Application what order the applicant was seeking. The in-house convenor reviewed the Application on 8 September 2023 and the Tribunal wrote to the Applicant as follows:

This is not a valid Application. Rule 78 relates to applications for compensation for misrepresentation or concealment by a landlord. At section 7 (c) of the application, you have made reference to a decision of the Tribunal that you wish to have dismissed and you have also referred to another Application in which a case management discussion has been fixed. In relation to a decision which the Tribunal has made in respect of another Application, you are entitled to apply for permission to appeal on a point of law. You are not entitled to make a new application in order that decision reviewed or appealed. Please confirm that you will withdraw the present Application. Please respond within 14 days. Upon receipt of the above information, a decision can then be taken on the Application and whether it should be accepted and referred to the tribunal for full determination. If you fail to provide the necessary information the Tribunal may reject your Application.

3. The Applicant responded on 2023 as follows:

I apologise profusely, this email escaped my attention. I have been slightly overwhelmed with university plus the multiple cases are on the go in relation to this property. It was never my intention to confuse the matters, I was not trying to make an appeal for the decision through this. The repairs that are outstanding are entirely separate issue, and I am not looking to seek an amendment on any decisions or make an appeal through a separate case, The appeals issue is a separate issue and has been advised by both the tribunal as well as environmental health as a course of action that I need to take. As such I just wanted to clarify this issue and can you advise if this is sufficient to cover what is being asked?

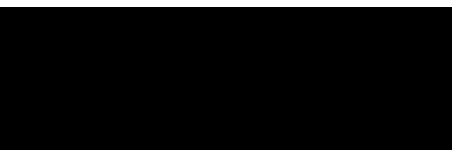
4. Rule 8(1)(a) of the Rules allows an application to be rejected by the Chamber President if ***“they consider that an application is vexatious or frivolous”***. “Frivolous” in the context of legal proceedings is defined by Lord Justice Bingham in R-v- North West Suffolk (Mildenhall) Magistrates Court (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”.
5. I consider that this application is frivolous or vexatious and has no reasonable prospect of success. The Applicant has failed to submit a valid Application which sets out what order he is seeking from the Tribunal. From the terms of his most recent communication he also appears to be asking the Tribunal for advice as to how he should proceed. That is a matter for the Applicant as the Tribunal cannot give advice. The onus is on the Applicant to set out what order he is seeking and why. As it stands this Application makes no sense and has no prospect of success.
6. It is open to the Applicant to make a new Application which clearly sets out how rule 78 applies and what order he is seeking.

**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

