

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision by the Convener with Delegated Powers of the Chamber President

Under Rule 8 of the Schedule 1 to the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) (Regulations) 2017 ('the 2017 rules')

Re: Application to First-tier Tribunal made under Section 17 of the Property Factors (Scotland) Act 2011 and Rule 43 of the 2017 rules

Chamber Reference Number: FTS/HPC/PF/19/0375

Re: 2C Dempster Court, 3 Dempster Court, Greenock PA15 4QE

Parties:

Mr James McCloy (the homeowner)

Speirs Gumley Property Management (the property factor)

Decision

After careful consideration of the homeowner's application in terms of rule 8 of the 2017 rules, **I have decided that the application should be rejected.**

Reasons for the decision and grounds for rejection

I have considered the application in terms of Rule 8 of the 2017 rules. Rule 8 provides as follows:

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.

Reasons for decision

Letters/emails were sent to you on 25 April, 29 May and 27 June 2019, asking you to provide evidence that you have notified the property factor of the complaints made in your application. In the most recent email of 27 June 2019, which required a reply by 18 July 2019, you were advised that if you did not provide this evidence, your application would be rejected. You have not provided the evidence of notification requested.

I have therefore decided to reject your application under Rule 8 (c) of the 2017 rules, as I have good reason to believe that it would not be appropriate to accept the application.

For the reasons stated above, your application is rejected.

What you should do now

If you accept the Convener's decision, there is no need to reply.

If you disagree with this decision –

A party aggrieved by the decision of the Chamber President or the Convener 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.

Yours sincerely

Sarah O'Neill
Convener

Legal member of the First-tier Tribunal for Scotland (Housing and Property Chamber)