



**DECISION AND STATEMENT OF REASONS OF PETRA HENNIG MCFATRIDGE 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 Procedural Rules")

in connection with

Case reference FTS/HPC/CV/23/2358

Parties

Mr Joseph White (Applicant)

Mr Johnathan Carruthers (Respondent)

Kilglen Property Management (Applicant's Representative)

1/2 5 Robertson Street, Greenock, PA16 8DB (House)

1. On 17.7.23 the First –tier Tribunal for Scotland, Housing and Property Chamber (the Tribunal) received an Application for a payment order under Rule 111 of the Procedural Rules from the Applicant's representative. The application only contained a c/o address for the Applicant. Enclosed with the application were a tenancy agreement and a transaction statement.

2. The FTT wrote repeatedly (11.8.23, 29.9.23 and 5.10.23) to the Applicant's representative requesting the proper address for the Applicant and other information.
3. No answer was received and no further documentation submitted. The file documents are referred to for their terms and held to be incorporated herein.

DECISION

4. I considered the application in terms of Rule 8 of the Procedural Rules. That Rule 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."

5. 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.

Relevant Legislation

Application for civil proceedings in relation to a private residential tenancy

111. Where a person makes any other application to the First-tier Tribunal by virtue of section 71(1) (First-tier Tribunal's jurisdiction) of the 2016 Act, the application must—

(a)state—

- (i)the name and address of the person;
- (ii)the name and address of any other party; and
- (iii)the reason for making the application;

(b)be accompanied by—

- (i)evidence to support the application; and
- (ii)a copy of any relevant document; and
- (c)be signed and dated by the person.

REASONS FOR DECISION

6. The application did not contain the Applicant's address, only a c/o address.
7. The FTT asked repeatedly for this information. No reply was received.
8. The application does not provide the information required in terms of Rule 111 (a) (i) of the Procedural Rules because it did not provide the proper address for the Applicant.
9. The transaction statement shows a different weekly charge (£138.08) from that stated in the tenancy agreement (138.46) with no explanation provided as to why these amounts differ.
10. The property ownership is shown on the land certificate as Kilglen Holdings Ltd. although the tenancy agreement shows as the landlord Joseph White. It is not clear on which basis the individual was entitled to act as landlord for the property.
11. The FTT had written to the Applicant's representative on 3 occasions requesting information and had not received a reply to any correspondence. It is clear that the Applicant is no longer engaging with the application process. The Applicant's representative had been advised that the application may be rejected if no reply is received.

12. Given that the application does not fulfil the lodging criteria for an application of that nature in terms of Rule 111 of the Procedure Rules and in particular does not provide the proper address for the Applicant, it would not be appropriate for the Tribunal to accept the incomplete application.
13. As the Applicant has disengaged from the process and not replied to repeated requests from the FTT for further information it would not be appropriate to accept an application which clearly is no longer insisted upon.
14. The application it is therefore rejected.

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.

P. Hennig McFatridge

Petra Hennig McFatridge

Legal Member

16 November 2023