



**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/PR/23/3698

Parties

Ms Serena Stocklose (Applicant)

Mr Brian Cathcart (Respondent)

167 Stonylee Road, Cumbernauld, G67 2LS (House)

1. The application dated 16.10.23 was made to the First-tier Tribunal, Housing and Property Chamber (FTT) under Rule 68 and Rule 103 of the Procedural Rules received by the FTT on 17.10.23. Following correspondence with the FTT the applicant then lodged a further application on 6.11.23 under rule 103 alone and maintained the application

under Rule 68 but stated that she was not yet able to submit a form D. The application under Rule 68 thus currently remains open and is the application to which this decision relates.

2. The applicant provided no tenancy agreement and on the form did not state an address for the respondent. She did not provide any information as to when the tenancy commenced.
3. On 25.10.23 the FTT wrote to the applicant in the following terms: “A separate application form is required for each application .Please provide an amended application for each application which only contains the information relevant to that case. Please note that an address is required for the respondent. If you do not have an address you should submit an application for service by advertisement using the form on the Tribunal website. This must be accompanied by a trace report from a Sheriff Officer For the Rule 68 application, please note that this Rule only applies where the tenancy started before 1 December 2017. It appears from the documents submitted that your tenancy may have started after this. If so, your application should be made in terms of Rules 105 and 107. Please refer to the Chamber website for further information. Please provide 1. In the application form, clarification of the Rules which are relied upon. 2. Full details of the tenancy including the start date, the amount of rent and deposit and any other terms which were agreed. 3. If Rule 68 applies, the order sought can only relate to the provision of a tenancy agreement. 4. If Rules 105 and 107 apply, the order sought can include compensation. Please note that if you are also seeking compensation which is not covered by any of the above Rules, a separate application on Form F should be submitted with full details of the claim and evidence. Please respond within 14 days or your applications may be rejected.”
4. On 10.11.23 the FTT again wrote in the following terms asking for a reply by 24.11.23: “A Legal Member has considered your response in relation to this application and it is noted that you intend to serve notification to the Landlord (as required by the Procedural Rules) and will thereafter submit a fresh application. It is also noted that this may be under a different Rule to the Rule 68 application originally received on 17 October 2023. Please ensure when re-submitting this application to deal with the other points raised in the Tribunal’s request for further information dated 25 October 2023, including the issue of the lack of an address for the Respondent.”
5. On 14.11.23 the applicant stated there were in fact two individuals with the same name and she was not sure which one was the landlord and asked the FTT how to proceed. She was advised that the Tribunal cannot give legal advice.
6. No address for the landlord or further information about the tenancy and no application for service by advertisement have been received. No replacement application for the current application has been received.

DECISION

7. 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."

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

REASONS FOR DECISION

9. In terms of Rule 68 of the Procedural Rules an application under S 30 (2) of the Housing

(Scotland) Act 1988 has to

“(a) state:

- i. the name and address of the tenant
- ii. ***the name, address and registration number (if any) of the landlord”***

10. The applicant was asked repeatedly for either the respondent’s address or for an application for service by advertisement. She provided neither. She may have good reason why she is unable to provide the address but she also not provided any of the information regarding the tenancy and she has not provided an application for service by advertisement. The application is rejected because the applicant has not provided the necessary information for lodging the application although she had been asked to do so by the FTT.

11. It would not be appropriate for the FTT to accept an incomplete application that does not meet the lodging criteria. The application is thus rejected.

12. This does not prevent the applicant from lodging a fresh application when she is able to provide the necessary details and ancillary applications.

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-McFatrige

Petra Hennig McFatrige

Legal Member

29 November 2023