



**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 Ms Tracy Reid in terms of Rule 65 of the Rules.

**Case reference FTS/HPC/EV/23/3143**

At Glasgow on the 11 December 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) and (c) of the Rules.

1. This is an application by Ms Tracy Reid the owner and landlord of the property at 12 Hamilton Drive Blantyre South Lanarkshire G72 9UB ‘the property’, for recovery of possession of the property in terms of Rule 65.
2. The application was dated 31 August 2023 and received by the Tribunal on 11 September 2023.
3. The application was accompanied by the following:-
  1. Tenancy agreement for let of the property from 23 March 2015 until 23 March 2016.
  2. Notice to leave dated 16 June 2022.
  3. AT5.

4. The application was incomplete and the Tribunal wrote to the applicant on 11 September 2023 as follows:

The following further information is required from you before your application can proceed to the Chamber President for consideration: • a copy of the notice by landlord of intention to raise proceedings for possession of a house let on an assured tenancy (“AT6”) • evidence of the notice by landlord of intention to raise proceedings for possession of a house let on an assured tenancy (“AT6”) being served by the landlord on the tenant • a copy of the notice to quit served by the landlord on the tenant (if applicable) • evidence of the notice to quit being served by the landlord on the tenant (if applicable) Please reply to this office with the necessary information by 18 September 2023, otherwise the application may be rejected.

5. The applicant wrote to the Tribunal on 13 September 2023 with an AT6 dated 13 September 2023. She also requested that any proceedings be held in private due to her domestic circumstances.
6. The in-house convenor reviewed the application and the Tribunal wrote to the applicant on 11 October 2023 as follows:

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

- Please provide an amended application form which clearly states the eviction grounds which apply. The application and other documents submitted refer to different grounds. Please note that “landlord intends to sell” is not a valid ground under the 1988 Act. Ground 8 has been repealed and ground 10 only applies when a tenant gives notice to the landlord but does not move out. The current rent arrears grounds are 8A, 11 and 12.
- The Notice to leave lodged with the application is not a valid notice for an assured tenancy and should be withdrawn.
- Please provide a valid AT6 notice with evidence of service on the tenant. This must also refer to relevant grounds for possession of the property. If you have not yet served this you should withdraw the application and re-submit it once a valid notice has been served.
- If you are relying on rent arrears grounds you should provide a rent statement and evidence of compliance with the Rent Arrears Pre Action protocol.
- Please provide a copy of the section 11 notice with evidence that it was sent to the Local Authority.
- Please note that a decision on whether to hear the case in private will not be taken at this stage. If the application is accepted, you should renew the request which will be determined by the Tribunal dealing with the case. Please reply to this office with the necessary information by 25 October 2023. If we do not hear from you within this time, the President may decide to reject the application.

7. The applicant contacted the Tribunal on 25 October 2023 seeking more time to respond to the Tribunal’s request for further information. The applicant contacted the Tribunal on 19 November 2023 enclosing the section 11 notice and proof of service. She stated that she had been unable to obtain legal advice. She also stated:

*It's a bit of a mess and to be honest I think I might need to scrap the whole thing and start again with a new Notice To Quit. I am suffering massively financially; my mortgage company have been helping me with this. Could you let me know, if I do start again with a new Notice to Quit citing severe financial hardship, can I request an Eviction Order from yourselves at the same time? Or do I need to wait til the time period on the Notice to Quit expires? Hope that makes sense, thank you so much. I'll keep trying. I'm so sorry again. Best wishes, Tracy Reid.*

8. Nothing further has been heard from the applicant. I have reviewed this application today and I have decided to reject it. No notice to quit or valid AT6 with proof of service has been produced and the application has not been amended to reflect the relevant eviction grounds. In her most recent email of 25 October 2023 the applicant appears to be seeking advice from the Tribunal about how to proceed.

9. 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”.

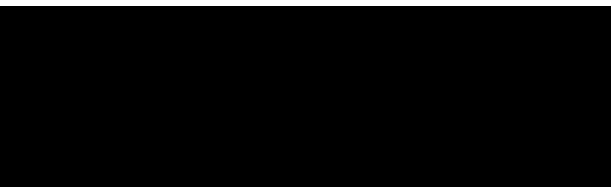
10. I consider that this application is hopeless and has no reasonable prospect of success as essential information such as a valid AT6 and amended application have not been provided by the applicant despite the Tribunal’s detailed emails of 11 September 2023 and 11 October 2023. Further, in terms of Rule 8(c) of the rules I have good reason to consider that it would not be appropriate to accept this application as it is incomplete and the applicant has not communicated with the Tribunal since October 2023.

**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