



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 Monty Roberts of Red Star Property Rentals in terms of Rule 65 of the Rules.

Case reference FTS/HPC/EV/23/3860

At Glasgow on the 10 January 2024, 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 for eviction by Mr Monty Roberts of Red Star Property Rentals in terms of Rule 65.
2. The application was dated 30 October 2023 and received by the Tribunal on 2 November 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 in-house convenor reviewed the application and the Tribunal wrote to the applicant on 20 November 2023 as follows:

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

1. Please provide a complete copy of the tenancy agreement you are relying upon. You have produced a number of incomplete tenancy agreements.
2. You rely upon Ground 10. This Ground applies where the tenant has served a notice to quit on the landlord. Please provide a copy of the Notice to Quit served by the tenant.
3. Please provide a copy of Form AT6 along with proof of service.

4. The section 11 Notice does not advise the local authority that proceedings have been raised under section 19(A) of the Housing (Scotland) Act 1988. Please serve a correct notice and copy to the Tribunal along with evidence of service.

5. The landlord is described as James Valentine in the tenancy agreement. Please explain on what basis you are entitled to raise the proceedings. Please reply to this office with the necessary information by 4 December 2023. If we do not hear from you within this time, the President may decide to reject the application.

5. The applicant did not respond. I have reviewed this application today and I have decided to reject it.

6. 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”.

7. I consider that this application is hopeless and has no reasonable prospect of success as essential information such as a valid AT6 has not been provided by the applicant despite the Tribunal’s detailed email of 20 November 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 he made the application in 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.



Legal Member