



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 Martin Letham in terms of rule 79 of the Rules.

Case reference FTS/HPC/EV/23/4390

At Glasgow on the 22 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) of the Rules.

1. This is an application for eviction by Mr Martin Letham. Mr Letham made one eviction application which purported to be in terms of both rules 65 and 79. Two separate case numbers were therefor allocated. EV/23/4393 for the application in terms of rule 79 and FTS/HPC/EV/23/4390 for the application in terms of rule 65.
2. The application was dated 6 December 2023 and received by the Tribunal on 8 December 2023.
3. The application was accompanied by a notice to leave. No tenancy agreement was produced.
4. The Tribunal wrote to the applicant on 8 December 2023 asking for a copy of the tenancy agreement. The applicant wrote to the Tribunal on 20 December 2023 with a copy of a Private Residential Tenancy Agreement which started on 8 January 2022.
5. I have reviewed this application today and I have decided to reject it. Rule 65 relates to eviction from assured tenancies under the Housing (Scotland) Act 1988 and not private residential tenancies.
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".

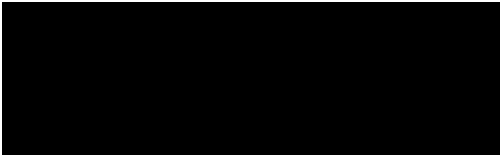
7. I consider that this application is hopeless and has no reasonable prospect of success as rule 65 does not apply to the circumstances. It appears that a private residential tenancy has been constituted and not an assured tenancy.

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