



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 Mrs Lucy Fraser in terms of rule 70 of the Rules.

Case reference FTS/HPC/CV/23/2728

At Glasgow on the 4 March 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) (c) of the Rules

1. This is an application by Mrs Lucy Fraser for rent arrears in terms of rule 70 of the Rules. The Application was made on 6 August 2023.
2. The in-house convenor reviewed the application and the Tribunal wrote to the applicant on 30 August 2023 seeking further information as follows:

A legal member of the Tribunal with delegated powers of the Chamber President has considered the application and has determined that the following information requires to be provided before the application can progress:

1. We note that the owner of the property is Peter John Fraser. Please provide written evidence from the proprietor confirming that you were authorised to rent the property and that you are authorised to raise these proceedings.
2. Please provide a copy of the tenancy agreement.
3. Please provide an amended application form showing the sum that you wish the Tribunal to make. Please note that the Tribunal has no power to order a charge or an arrestment to be issued.
4. We cannot see the column of rent arrears on the rent statement you provided. Please provide a rent statement with a column for the date, rent due, rent paid and a running total of rent arrears. Please respond within 14 days. Upon receipt of the above information, a decision can then be taken on whether the application

is valid and whether it should be accepted and referred to the tribunal for full determination. If you fail to provide the necessary information the tribunal may reject your application.

3. The applicant contacted the Tribunal on 19 September 2023 to request more time to prepare the rent statement.
4. The Tribunal sent a further request for information on 4 October 2023 as follows:
 - (1) Please confirm that the Respondent is still residing at the property as you have submitted a copy of an eviction order. If she is no longer at the property, a current address is required.
 - (2) As previously requested, please provide an amended application form which specifies the sum being sought and a rent statement which shows the rent due, the payments made from whatever source and the running total outstanding.
5. The applicant contacted the Tribunal on 5 October 2023 to state that the respondent had left the property. She submitted a rent statement and an amended application.
6. The Tribunal sent a further detailed letter on 25 October 2023 as follows:

Your application or further information has been assessed by a Legal Member of the Tribunal with the delegated authority of the Chamber President. The Legal Member has requested the following information or documentation:

(1). If you are unable to obtain an address for the Respondent, you may wish to apply for Service by Advertisement (“SBA”). The form is available on our website. An application for SBA must be accompanied by evidence to show attempts made to trace the Respondent, such as a tracing agency report or a sheriff officer’s report.

(2). The application form is still incorrect. Please amend section 5(b) to remove all reference to grounds of eviction as this is not appropriate. Please amend section 5(c) to show that you are seeking a payment order in the sum of [insert the exact amount of payment order you are seeking], and remove all references to enforcement, charges and arrestment, as they are not appropriate or within the remit of the Tribunal. Please reply to this office with the necessary information by 8 November 2023. If we do not hear from you within this time, the President may decide to reject the application.

7. The Applicant did not respond. Reminders were sent on 28 November 2023 and 18 January 2024. No response has been received.
8. Rule 8(1) (c) requires the President to reject an application if they have good reason to believe it would not be appropriate to accept it. 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 the Application is incomplete and the Applicant has failed to cooperate with the Tribunal in the execution of its duties. The Applicant has not communicated with the Tribunal since October 2023 and the matters first raised by the Tribunal in August 2023 remain unanswered.

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