



Decision with Statement of Reasons of Alan Strain, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber)

Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules")

Chamber Ref: reference FTS/HPC/EV/23/4134

Re: 14 Mount Stuart Street, Glasgow, G41 3YL ("the Property")

Parties

Welcome Properties (Applicant)

Mrs Farzana Naeem, Mr Muhammad Naeem (Respondent)

DAH Glasgow Limited (Applicant's Representative)

Tribunal Member:

Alan Strain (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be dismissed on the basis that it would not be appropriate to accept the application in terms of Rule 8(1)(c).

Background

1. The application was received by the Tribunal under Rule 65 on 16 November 2023.
2. The application was considered by the Tribunal and further information was requested by letters of 13 December 2023 and reminder of 31 January 2024. The Applicant was asked to:

"The inhouse convener has reviewed the application for eviction. To enable it to be considered further please respond to the following within 14 days using our numbering:

1. Please provide your mandate from the applicant authorising you to act on his behalf in this matter. 2. Please provide confirmation from the joint owner that the applicant has the authority to let the property through Welcome Properties and make this application in his sole name or aimed the application to include the joint owner. 3. Please clarify if you have applied under rule 65 in error. If so please amend to rule 66 or provide an AT6 and proof of service. 4. Please provide proof of service of the notice to quit and section 33 notice. 5. Please amend the application to correctly designate the second tenant as there appears to be an error in the address. 6. Please provide the reason for making the application as this will required by the tribunal if the application proceeds to a case management discussion. Please reply to this office with the necessary information by 27 December 2023. If we do not hear from you within this time, the President may decide to reject the application.”

3. The information was not received.

Reasons for Decision

4. The Tribunal considered the application in terms of Rule 8 of the Chamber 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;·
(c) they have good reason to believe that it would not be appropriate to accept the application;

(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."

5. Rule 65 provides for certain information to be supplied with an application:

Application for order for possession in relation to assured tenancies

65. Where a landlord makes an application under section 18(1) (orders for possession) of the 1988 Act, the application must—

(a)state—

(i)the name, address and registration number (if any) of the landlord;

(ii)the name, address and profession of any representative of the landlord;

(iii)the name and address of the tenant; and

(iv)the possession grounds which apply as set out in Schedule 5 of the 1988 Act;

(b)be accompanied by—

- (i) a copy of the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the landlord can give;
 - (ii) a copy of the notice served on the tenant by the landlord of intention to raise proceedings for possession of a house let on an assured tenancy;
 - (iii) a copy of the notice to quit served by the landlord on the tenant (if applicable); and
 - (iv) evidence as the applicant has that the possession ground or grounds has been met; ...
 - (v) a copy of the notice given to the local authority by the landlord under section 11 of the Homelessness (Scotland) Act 2003 (if applicable), and
 - (vi) a copy of Form BB (notice to the occupier) under schedule 6 of the Conveyancing and Feudal Reform (Scotland) Act 1970 (if applicable), and
- (c) be signed and dated by the landlord or a representative of the landlord.

The applicant failed to produce the documentation required to support the application that had been requested.

6. The Tribunal consider that as the required information was not provided there is good reason why the application should not be accepted. The application is accordingly rejected.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal 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.

A. Strain

14 March 2024

Legal Member/Chair

Date