



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 Moira Rankin in terms of rule 109 of the Rules.

Case reference FTS/HPC/EV/24/0426

At Glasgow on the 13 May 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 Moira Rankin for eviction in terms of rule 109 of the Rules. The Application was made on her behalf by Mars Donna Cramb of K Property on 26 January 2024.
2. The in-house convener reviewed the Application and The Tribunal wrote to the Applicant’s representative on 29 February 2024 requesting the following:
 - (1) Please tell us why 92 days’ notice was given in the notice to leave.
 - (2) You have told us one of the tenants left the property but unless the tenancy agreement was renegotiated we require to see a valid notice to leave served on both tenants.
 - (3) Please provide evidence of service of the notice to leave. The email provided does not show what email address was used to enable us to cross check it against the tenancy agreement.
 - (4) Please comment on the validity of the notice to leave given that no details of the eviction ground are provided.
 - (5) We require evidence of the eviction ground, both in relation to the sale and the final hardship. Please provide evidence that your client requires to sell the property to alleviate financial hardship. We undernote the type of information that could be helpful in establishing this.
 - (6) Please provide a mandate from the applicant authorising you to act.

Undernote referred to

1. Details of any secured loan on the Property and monthly repayments.
2. Details of any other costs incurred by the Applicant in connection with the Property.
3. Details of any other property/properties owned by the Applicant together with details of secured loans and monthly payments in respect of such property/properties including loan repayments and others.
4. The employment status of the Applicant and whether employed, self-employed or unemployed.
5. Net income of the Applicant:
 - a. Wages and whether paid weekly, fortnightly, four weekly or monthly.
 - b. Any bonus or commission.
 - c. Any state benefits and whether paid weekly, fortnightly, four weekly or monthly.
 - d. Tax Credits.
 - e. Any other income.
6. Outgoings of the Applicant and state whether weekly, fortnightly, four weekly, monthly or annually:
 - a. Mortgage/ rent.
 - b. Council Tax.
 - c. Utilities- gas, electricity etc.
 - d. Property insurance relating to the Applicant's home.
 - e. Life insurance/pension contributions.
 - f. Food.
 - g. Mortgage repayments in respect of the Applicant's home.
 - h. Loan repayments.
 - i. Childcare/maintenance costs.
 - j. Essential travel costs.
7. Assets of the Applicant:
 - a. Value of heritable properties owned by the Applicant.
 - b. Amount of savings held by the Applicant.
 - c. Value of shares/investments held by the Applicant.
 - d. Any other assets owned by the Applicant.
8. Debts of Applicant other than loans secured on the Property or other properties owned by the Applicant:
 - a. Details of debt owed by the Applicant including amounts, repayment terms and reasons for incurring the debt.
 - b. Evidence of creditors pressing for repayment of any debt.
9. Evidence from a third party/parties to support the Applicant's position that the order should be granted to relieve the Applicant's financial hardship. Such evidence might be:
 - a. A letter of advice from an approved money advisor or local authority debt advice service.
 - b. A letter from an independent financial advisor.
 - c. A letter from a chartered accountant.

- d. A letter from a person or organisation the Applicant intends to rely on to advance the position that the Application for the order should be granted.

10. Any documentary evidence in support of the Application.

11. Details of dependents living with the Applicant:

- a. Spouse/ partner.
- b. Children.
- c. Any other dependent.

12. A written submission detailing why the refusal of the Application would cause financial hardship to the Applicant.

13. It is for the Applicant to provide evidence that the order for eviction should be granted. It is likely that, in considering the Application, the tribunal will have regard to the whole financial circumstances of the Applicant including any other household income.

3. The Applicant's representative replied on 1 March 2024 as follows:

The 92 days notice must have been a miscalculation of days but it is not less than the required 84 days notice required

The other tenant had to leave due to domestic violence and was put into emergency womens aid accommodation, Krystian is now only one on lease and lease is only in his name and Karolina was removed from the lease and lease now only on Krystian's name.

The applicant is employed.

I have asked landlord to provide the financial information you have requested and will send this over when I have it.

4. The in-house convener reviewed the Application and the Tribunal sent a further request for information on 3 April 2024 as follows:

- (1) Please provide, as previously requested, the details of the email address the Notice to Leave was sent to.
- (2) You state that there is now a new tenancy in place with Krzystian Krzysztof as the sole tenant. Please explain why the Notice to Leave was then addressed to him and to Ms Siewierska and provide evidence of the new tenancy agreement.
- (3) If the original tenancy agreement has not been terminated and a new tenancy entered into, you will have to evidence that the Notice was sent to both tenants, provide a S 11 notice stating both tenants and you require to amend the application to both tenants, including the current details for the second tenant.

5. The representative did not respond.

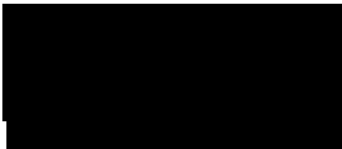
6. The Tribunal can reject an application in terms of Rule 8(c) if they have good reason to believe that it would not be appropriate to accept it. Basic information to enable the Application to proceed (such as evidence of service of the notice to leave on both tenants) has not been provided. The Applicant's representative has had several weeks to provide the requested information and she has failed to do so. I therefore have good reason to consider that it would not be appropriate to accept this application as it is incomplete and the Applicant's representative has failed to cooperate with the Tribunal in the execution of its duties. It is open to the Applicant to resubmit the Application with the correct supporting information.

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