

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of Karen Moore, 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 (Procedure) Regulations 2017 (“the Rules”)

Case reference FTS/HPC/EV/24/0611

Parties

Balcarres Estate (Applicant)
Mr Scott McCowan (Respondent)

Guy Wedderburn CM Solutions (Applicant’s Representative)

2 Balmakin Cottage, Colinsburgh, KY9 1JS (House)

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 66 on 8 February 2024.
2. The application was considered by the Tribunal and further information was requested by emails of 7 March 2024 and 18 April 2024 as follows: “Please clarify if the application is to proceed under rule 66 or under rule 65 or if you are making essentially two applications. It has currently been logged as an application under rule 66 as stated on the form. If you wish to apply under both rules please lodge a further application form under rule 65 with the relevant documentation, which will then be assigned a separate case reference. If the current application is to proceed only under rule 66 please amend part 5 of the form accordingly. If it is to be only under rule 65 please amend the application on page 1. If you wish to make two applications please provide a further application under rule 65 and amend, as stated above, the existing application under rule 66 in part 5. For any application under ground 12 please provide evidence of how the pre-action requirements have been complied with. It would be helpful for either option if you could provide the recorded delivery slip for the sending of the Notice to Quit, S 33 notice and AT6 document.”

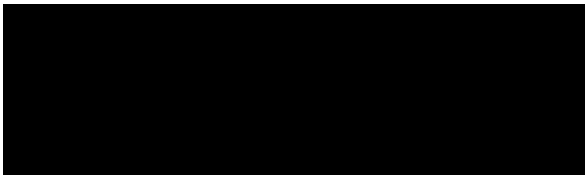
3. In each of the emails and the letter, the Applicant was given a date by which to respond and was advised that a lack of response might mean that the application would be rejected in terms of Rule 8 of the Rules. The last date for response was 2 May 2024. No response was received from the Applicant.

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 111 of the Rules provides that an application for an order must be accompanied by evidence in support of the claim being made. In this case, the Applicant has failed to provide the required documentation. The Tribunal cannot grant the application without this information.
6. The Tribunal consider that there is good reason why the application cannot be accepted. Accordingly, the application is 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.



Legal Member

Date

21 May 2024