



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 Philip Jordan and Mr Alec Witts of Promenade Property Investments Company in terms of rule 111 of the Rules.

Case reference FTS/HPC/CV/23/3337

At Glasgow on the 20 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 Mr Philip Jordan and Mr Alec Witts of Promenade Property Investments Company in terms of rule 111 for civil proceedings arising out of a private residential tenancy agreement for 25 Lane Crescent Ayr KA6 7AJ ‘the property’. The application was made on their behalf by Miss Annette Weston of Corbett and Shields.
2. The inhouse convenor reviewed the application and the Tribunal wrote to the applicant’s representative on 12 October 2023 seeking further information as follows:

I refer to your recent application which has been referred to the Chamber President for consideration. Before a decision can be made, we need you to provide us with the following:

- (1) Please provide your mandate from the applicant authorising you to act in this matter.
- (2) Please clarify the applicant’s correct name. The registered landlord and owner is Promenade Property Investments Ltd, the application has Promenade Property Investment Company and the tenancy agreement refers to Promenade Properties Limited. Please amend the application to give the correct designation of the applicant.

(3) Please amend the application to correctly design the respondent. The tenancy agreement has two tenants namely Mr Kerry Wilson and Ms Kelly McNeillie. The application refers to only one respondent Mr Kelly Wilson which is not correct. Please amend the application to correct this error.

(4) You have made an application for service by advertisement which has the correct names for the respondents but you refer to a report from Kirk and Company (which we take to be the sheriff officers report). This is not attached. Please provide this report to enable this application to be considered.

3. The applicant's representative sent an amended application and trace report on 13 October 2023.
4. The inhouse convenor reviewed the application and the Tribunal wrote to the applicant's representative on 7 November 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) The sheriff officer's report provided relates to only one of the respondents. Please provide a trace report in respect of the other respondent.
- (2) Please sign and date the amended application form.

You may wish to take advice from a solicitor or housing advisory service. 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. Please reply to this office with the necessary information by 21 November 2023. If we do not hear from you within this time, the President may decide to reject the application.

5. The representative sent in an amended application form on 8 November 2023. The in-house convenor reviewed the application and the Tribunal sent a further request for information on 20 December 2023 as follows:

A Legal Member of the Tribunal with delegated powers of the President has considered your application.

(1) The documents lodged are still inaccurate. According to the tenancy agreement the tenants are Kerry Wilson and Kellie McNeillie. You have submitted an amended form which identifies both as Kelly. Please provide a form with the correct names. Please also provide a trace report for Kerry Wilson. The report lodged only relates to Kellie McNeillie. Please respond within 14 days or your application may be rejected. Please reply to this office with the necessary information by 3 January 2024. If we do not hear from you within this time, the President may decide to reject the application.

6. A further amended application was received on 21 December 2023 but no application but no trace report was sent. The Tribunal sent a further request for the trace report on 24 January 2024 and a reminder was sent on 12 March 2024. No reply has been received.

7. In terms of Rule 8(c) of the rules the Chamber President, or another member of the Tribunal acting under the delegated powers of the Chamber President, must reject an application if they have good reason to believe it would not be appropriate to accept it. I have good reason not to accept this application as it is incomplete. Without a trace report for both respondents the application for service by advertisement cannot proceed. Further, the applicant's representative has failed to cooperate with the Tribunal in the execution of its duties.

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