



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: FTS/HPC/CV/24/0225

Parties

Mr James Cadzow (Applicant)

Miss Kiera Girvan, Mr Nicky Grant (Respondent)

Re: 28 Hunters Way, Kirkmuirhill, ML11 9RH ("the Property")

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 rejected 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 111 on 16 January 2024.
2. The application was considered by the Tribunal and further information was requested by email of 16 February 2024 followed by reminders of 5 April 2024 and 21 May 2024.

The Applicant was requested to provide the following:

“Your application 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. The application has been lodged and signed by a representative, however, the application form names the Applicant as the representative. Please confirm whether the Applicant is represented in this application. Please provide an amended page of the application form, showing either the representative section as blank, if the Applicant is not represented, or the correct details for the Applicant representative in the correct section. If the Applicant is not represented, please provide an application form signed by the Applicant.
2. If the Applicant is represented, please provide a mandate from the Applicant(s) authorising the representative to act on their behalf.
3. It is noted that there was a joint owner on the Title Deed. The situation may have changed, but if there is a joint owner, please confirm whether they are to be a joint applicant, or provide their authorisation to the Applicant (i) entering into a tenancy agreement in his sole name, and (ii) progressing this application in his sole name.

Please reply to this office with the necessary information by 1 March 2024. If we do not hear from you within this time, the President may decide to reject the application. “

The Applicant failed to respond.

Reasons for Decision

3. 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."

4. The application seeks to proceed under Rule 111. The Applicant has failed to provide necessary information as detailed in paragraph 2 above. The Tribunal cannot grant an order under Rule 111 without the information requested. The Applicant has been warned on 16 February 2024 followed by reminders of 5 April 2024 and 21 May 2024 that if the information was not provided then his application may be rejected.

5. The Tribunal consider that the failure to provide the required information constitutes 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

2 July 2024

Legal Member/Chair

Date