

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/PR/24/1488

Parties

Mr Gordon McPhail (Applicant)
Miss Angela Foss (Respondent)

11 Thistle Street, Galashiels, TD1 1LX (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 83 on 2 April 2024.
2. The application was considered by the Tribunal and the Applicant was advised that it appeared that he had applied under the wrong legislation and the wrong Rule. The Applicant was asked on 30 April 2024 and 3 June 2024 to consider if the application was, in fact, made under the wrong procedures and if he wished to withdraw the Application. The Applicant was advised that a lack of response might mean that the Application would be rejected in terms of Rule 8 of the Rules. The correspondence of 3 June 2024 gave a time limit for reply of 10 June 2024. The Applicant made no reply.

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 Act and the Rules require the Applicant to comply with the correct tribunal rules and provide sufficient evidence with the application. Tribunal cannot grant the application without this information.
5. The Tribunal considers 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.

Karen Moore

Legal Member

Date

10 July 2024