



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 Pauline Gallacher in terms of rule 109 of the Rules.

Case reference FTS/HPC/EV/24/1950

At Glasgow on the 5 August 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) a) and (c) of the Rules

1. This is an application by Mr Roy Marshall, the owner of the property at Flat 1/2 4 Calvin Road Castlemilk Glasgow G45 9TX (‘the property’) for eviction in terms of rule 109 of the Rules. The application was dated 26 April 2024 and received by the Tribunal on 1 May 2024.
2. The application was incomplete and the Tribunal sent a request for further information on 1 May 2024 as follows:

The following further information is required from you before your application can proceed to the Chamber President for consideration:

- a copy of the notice to leave given to the tenant as required under section 52(3) of the 2016 Act;
- evidence of the notice to leave given to the tenant as required under section 52 (3) of the 2016 Act being served by the landlord on the tenant
- a copy of the notice given to the local authority as required under section 56(1) of the 2016 Act
- evidence of the notice given to the local authority as required under section 56 (1) of the 2016 Act being provided to the local authority. Please reply to this office with the necessary information by 8 May 2024, otherwise the application may be rejected.

3. No reply was received. The in-house convenor reviewed the application and the Tribunal wrote to the Applicant on 24 May 2024 seeking further information as follows:

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) A copy of the notice to leave given to the tenant together with evidence of service such as an email or recorded delivery posting receipt and recorded delivery tracking report.

(2) A copy of the section 11 notice given to the local authority together with evidence of service upon the local authority.

(3) A copy of the tenancy agreement.

(4) Evidence to support the ground of eviction. You state Ground 10 in the application form, but that ground only applies where the tenant is no longer occupying the property. It may be the case that you have mistakenly referred to grounds of possession from different legislation when completing the application form. When you provide a copy of the notice to leave, it will show the ground(s) on which you are proceeding. If it is Ground 1, you should provide evidence of intention to sell, or evidence of the sale, ensuring that any third party information is redacted from any sale documentation. It would be helpful if you would also amend the relevant page of the application form to show the correct ground(s) which should mirror those in the notice to leave.

5. It is noted that the Title Deed shows there was previously a joint owner of the property. We also note that you have referred to a recent bereavement which may have affected the ownership of the property. We appreciate that this is a sensitive matter, but we are required to carry out ownership investigations, and it would be helpful if you were able to indicate whether you are now the sole owner of the property.

Please be aware that further issues may arise upon submission of the above documentation and information. Please reply to this office with the necessary information by 7 June 2024. If we do not hear from you within this time, the President may decide to reject the application.

4. No reply was received and the Tribunal sent a reminder on 1 July 2024.
5. No reply has been received.
6. Rule 8 (1) (c) provides that the President must reject an application if they have good reason to believe it would not be appropriate to accept it. I consider I have good reason to consider that it would not be appropriate to accept this application as it is incomplete and the Applicant 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. He may wish to seek legal advice in this matter.

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