



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/PR/24/1771

Parties

Mr Andrew Payne, Carrieanne French (Applicant)

Kozylets (Respondent)

0/2, 43 Riverford Road, Glasgow, G43 1RX (House)

Tribunal Member:

Alan Strain (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined 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 110 on 18 April 2024.
2. The application was considered by the Tribunal and further information was requested by email of 28 May 2024. The Applicant was asked to provide the following further information:

“Before a decision can be made, we need you to provide us with the following: • An application for a wrongful termination order can only be accepted if the tenancy was ended in accordance

with section 50 of the Private Housing (Tenancies) (Scotland) Act 2016, as set out in section 58(1) of the Act. You may wish to take advice on this matter before considering whether to withdraw the application. Please let us know if you wish to withdraw the application. Please reply to this office with the necessary information by 11 June 2024. If we do not hear from you within this time, the President may decide to reject the application. “

3. The Applicant did not provide the information requested. The tribunal wrote again by email of 9 July 2024 in the following terms:

“Before a decision can be made, we need you to provide us with the following: The Tribunal had previously advised you that the case could be kept open to allow you to obtain legal advice. However, it cannot be kept open indefinitely. Please within 14 days either withdraw the claim or state on what basis you consider it can be made. If you require further time please advise the Tribunal within 14 days how much time you would require and a decision can then be made whether this can be accommodated. Please reply to this office with the necessary information by 23 July 2024. If we do not hear from you within this time, the President may decide to reject the application.”

No response was received.

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 110 provides:

Application for a wrongful termination order

110. Where a former tenant makes an application under section 57(2) (wrongful termination by eviction order) or section 58(2) (wrongful termination without eviction order) of the 2016 Act, the application must—

(a)state—

(i)the name and address of the former tenant;

(ii)the name, address and profession of any representative of the former tenant; and

(iii)the name, address and registration number (if any) of the former landlord;

(b)be accompanied by evidence showing that the tenancy was unlawfully terminated; and

(c)be signed and dated by the former tenant or a representative of the former tenant.

The Applicant has failed to provide the information required to allow the application to proceed. In particular, he has not provided evidence that the tenancy was terminated in accordance with section 50 of the Act.

6. The Tribunal consider that the Applicant's failure to provide the requested 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

26 August 2024

Legal Member/Chair

Date