



**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 an application by Mr Gurmale Pall in terms of rule 65 of the rules.**

At Glasgow on the 12 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) (c) of the Rules.

1. This is an application by Mr Gurmale Pall, owner of the property at 4/3 84 Firhill Road Glasgow G20 7AL ‘the property’, for recovery of possession of the property in terms of Rule 65.
2. The application was dated 28 April 2024 and was received by the Tribunal on 1 May 2024.
3. The application was incomplete and the grounds were not clear. The email address contained in the application was illegible. The Tribunal wrote to the applicant by post 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 tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the landlord can give
- a copy of the notice by landlord of intention to raise proceedings for possession of a house let on an assured tenancy (“AT6”)
- evidence of the notice by landlord of intention to raise proceedings for possession of a house let on an assured tenancy (“AT6”) being served by the landlord on the tenant
- a copy of the notice to quit served by the landlord on the tenant (if applicable)
- evidence of the notice to quit being served by the landlord on the tenant (if applicable)
- evidence tending to show that the possession ground or grounds has been met
- a copy of the notice by the landlord given to the local authority under section 11 of the Homelessness (Scotland) Act 2003
- evidence of the notice by the landlord given to the local authority under section 11 of the Homelessness (Scotland) Act 2003 (if applicable) being provided to the local authority

- a copy of Form BB (notice to the occupier) under schedule 6 of the Conveyancing and Feudal Reform (Scotland) Act 1970 (if applicable) Please reply to this office with the necessary information by 8 May 2024, otherwise the application may be rejected.

Please note your email address is illegible, please confirm the correct email by emailing us or responding to this letter.

4. The applicant sent a letter to the Tribunal which was received on 7 May 2024. He gave his email address and a copy of the tenancy agreement.
5. The in-house convenor reviewed the application and the Tribunal wrote to the applicant by email on 22 May 2024 as follows:

Before a decision can be made, we need you to provide us with the following:

- You have served a notice to leave upon the Respondent, but this appears to be an assured tenancy, rather than a private residential tenancy. The documentation to be served to end an assured tenancy is not the same as a private residential tenancy. If you have not served a notice to quit (rather than a notice to leave) and a Form AT6, please withdraw the application. You may wish to take advice on serving such notices, as it can be a complicated matter.

You should be aware of the following:

- The grounds of possession for an assured tenancy differ from a private residential tenancy. There is no ground for possession for an assured tenancy on the basis that the landlord wishes to sell the property to alleviate financial hardship. Again, you may wish to take advice on your options, including whether Rule 65 is the most appropriate rule under which to proceed. The documentation to be served upon the Respondent is likely to differ if you proceed under a different rule.

- When making an application, you must provide evidence of service of the relevant notices upon the Respondent.

- When making an application, you must provide a copy of a section 11 notice served upon the local authority with evidence of service. Please reply to this office with the necessary information by 5 June 2024. If we do not hear from you within this time, the President may decide to reject the application.

6. The Tribunal sent a further request for information on 2 July 2024. This was sent by post as it was not clear to the Tribunal that the email address provided by the applicant was correct:

Before a decision can be made, we need you to provide us with the following:

- It is noted that you have not responded to our request for further information, as set out in the attached correspondence. Please provide the requested information within ten days, or it is likely the application will be rejected.

- If you no longer intend to progress the application, it would be very helpful if you would confirm that you wish to withdraw the application. Please reply to this office with the necessary information by 16 July 2024. If we do not hear from you within this time, the President may decide to reject the application. If you require any further information, please contact us, quoting your reference number.

It is not clear that the terms of the tenancy agreement would allow the application to proceed without a notice to quit in terms of section 18(6) of the Housing (Scotland) Act 1988. Please provide your representations in this regard.

7. The request for information was also sent to the applicant by email to the email address he provided, on 23 July 2024. The applicant has not responded.
8. Rule 8(1) (c) of the Tribunal Rules requires the President to reject an application if they have good reason to believe it would not be appropriate to accept it. This application is incomplete and it appears that the applicant has not served the appropriate notices. Further, the applicant has failed to respond to two reasonable requests by the Tribunal for further information. The applicant has therefore failed to cooperate with the Tribunal in the execution of its duties.
9. It is open to the applicant to make a new application once he has served the correct notices.

**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