



**Decision Under Rule 8(1)(c) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) by a Legal Member with delegated powers from the Chamber President**

Case reference FTS/HPC/CV/24/1835

**Parties**

**Douglas Stewart (Applicant)**  
**Fiona Shanti (Respondent)**

**Riverview, Inchbae Lodge, Garve, IV23 2PG (House)**

1. The Applicant made an application to the Tribunal under Rule 111 of the First Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”). The application was received by the Tribunal on 22 April 2024.
2. Following receipt of the application the Tribunal wrote to the Applicant by email on 8 July 2024 in the following terms:-

*“The in-house convenor has reviewed the application. To enable it to be considered further please reply to the following within 14 days using our numbering:*

*1. Please provide an address for the respondent. You have told us she no longer resides at the address you have provided. If you do not have an address you can make an application for service by advertisement which can be downloaded from the Tribunal website. You will have to provide a trace report from sheriff officers.*

*2. You have told us you have a representative however you submitted the application yourself and when we wrote to your representative seeking further information, it was you who replied. If you no longer have a representative please amend the application to remove them. Alternatively have your representative reply this request for information and confirm they are instructed.*

*3. Please amend your application to make it clear the order you are seeking from the tribunal and to remove all irrelevant information. The application is in respect of civil proceeding arising out of a residential tenancy agreement. The tribunal has no jurisdiction to deal with commercial leases and all reference must be removed. Please also remove all reference to unlawful eviction. If you*

want to make a claim for unlawful eviction you must make a separate application in terms of rule 110.

4. Please remove all reference to a complaint against a letting agent. Applications in connection with the letting agent code of practice can be made in terms of rule 95.

5. We do not understand the order you are seeking from the tribunal and why. You have made reference to defamation, stress and personal injury in relation to your son. Please note that the application you have made is personal to you. If your son has a relevant claim this has to be made in a separate application. Please amend the application to remove reference to any party other than you. Please also provide a breakdown of any order you are seeking from the tribunal, reasons why you are seeking that order and any evidence you have to support the claim you are making.

Please reply to this office with the necessary information by 4 June 2024. If we do not hear from you within this time, the President may decide to reject the application.”

3. The Applicant responded by email on 3 June 2024 stating “*The order I am seeking for is in respect of civil proceedings arising out of a residential tenancy agreement being civil harassment in the terms of rule 111*”. The Applicant went on to list various allegations against the Respondent and referred to various legislation that he claimed she had breached including the Defective Premises Act 1972, the Rent (Scotland) Act 1984 and the Protection from Harassment Act 1997. The Applicant advised that he was seeking compensation for loss of income in the sum of £25,000, the return of his personal possessions or, if not possible, compensation in the sum of £10,000, compensation for emotional stress in the sum of £25,000, a stop to the harassment from the Respondent and an apology. The Applicant included various screen shots of emails, photographs and internet posts in support of his email. On 10 June 2024 the Applicant emailed the Tribunal again with medical evidence.
4. On 19 June 2024 the Tribunal wrote again to the Applicant by email in the following terms:-

*“The legal basis of your application remains unclear. The Tribunal has no jurisdiction to deal with alleged ‘civil harassment’. Much of your complaint appears to relate to alleged criminal conduct, and some of it appears to have taken place on the commercial property. It is not clear that your complaints relate to matters arising from a private residential tenancy. Please consider taking advice on this matter and amending your application form to ensure that the only matters included are matters over which the Tribunal has jurisdiction, i.e. matters arising from a private residential tenancy. Any compensation sought must be fully vouched for. You also must amend the application form in respect of the change of representative.*”

*Please reply to this office with the necessary information by 3 July 2024. If we do not hear from you within this time, the President may decide to reject the application.”*

5. On 2 July 2024 the Applicant responded to the Tribunal by email. He provided an amended application form which stated he was applying under rules 110 and 111. The amended application read *“Seeking for an interdict preventing the landlady from undertaking the conduct complained. Seeking for personal possessions to be returned. Seeking damages for emotional stress. Seeking compensation for damages caused on property and for the loss of income and for the loss of property. Seeking for the respondent to cease and desist further intimidation, to supply water, heating, electric as required for a home.”* The Applicant’s email went on at length to list various allegations against his landlord and he attached screenshots of emails, photographs and internet posts in support of his application.

6. On 30 July 2024 the Tribunal wrote to the Respondent in the following terms:-

*“Your application has been reviewed by a Legal Member of the Tribunal with delegated powers of the President. Please provide the following further information :*

*1. You have lodged an amended Form F. You state that the application is made under rule 110 and rule 111. Rule 110 relates to wrongful termination orders. The application papers suggest that you continue to occupy the property which indicates that an application under rule 110 is premature. Please confirm whether you continue to occupy the property. If you no longer occupy the property you will require to explain the date you vacated and whether you vacated following service of a notice to leave or the grant of an eviction order. A separate application form will be required for an application under rule 110.*

*2. As regards the application under rule 111, you refer to seeking an interdict against the Respondent. This is outwith the Tribunal’s jurisdiction. You refer to seeking the return of personal possessions but you do not list them or explain how and when they were removed or by whom. You refer to seeking damages for emotional stress but do not state the sum claimed. You refer to seeking compensation for damage caused to property but do not list the items that were damaged, the damage caused to them, who caused the damage or the sum claimed. You refer to seeking compensation for loss of income but do not explain the reason income was lost, who caused the loss of income or the sum claimed. There is confusion between the tenancy of a residential property and a lease of an adjacent commercial property. As presently drafted, the application is entirely lacking in specification. It is strongly suggested that you obtain legal advice. If an amended application is not lodged in appropriate terms, the application will be rejected.*

*Please reply to this office with the necessary information by 13 August 2024. If we do not hear from you within this time, the President may decide to reject the application.”*

7. The Tribunal received no response from the Applicant. On 5 September 2024 the Tribunal wrote again to the Applicant by email requesting a response to the Tribunal's correspondence of 30 July 2024. The Applicant was advised to consider taking legal advice or consulting a housing advisory service, and was warned that a lack of response may result in rejection of the application.
8. On 2 September 2024 the Applicant emailed the Tribunal requesting further time to provide a response. However, on 5 September 2024 the Applicant sent an email headed "*The purpose for civil proceedings S111*". He went on to explain that he believed the Tribunal could consider a breach of section 8 of the Protection from Harassment Act 1987 as it "*can order landlords to fix problems and may award compensation*". The Applicant then sent two further emails that same day with a lengthy chronology of allegations against his landlord, with attachments consisting of screenshots of his Citizen Card, his son's Citizen Card and a letter confirming a hospital appointment for his son. On 6 September 2024 the Applicant emailed again stating "*I am not clear what else is required here*".
9. Rule 8(1)(c) of the Rules allows an application to be rejected by the Chamber President if "they have good reason to believe that it would not be appropriate to accept the application". The application in this case is lacking in specification and does not set out a clear legal basis for the claim. The Applicant has referenced various matters which do not fall within the jurisdiction of the Tribunal. The Applicant has been asked on several occasions to provide an amended application in appropriate terms but has failed to do so. He has been encouraged to take advice to assist him in this regard. Accordingly I believe there is good reason to not accept the application at this time. In view of the nature and length of the correspondence between the Tribunal and the Applicant regarding his application I can reasonably assume that there is no prospect of the Applicant being in a position to submit an amended application that the Tribunal can properly consider within a reasonable period of time. The application must therefore be rejected.
10. I would again strongly encourage the Applicant to seek advice from a solicitor or advice agency to assist him in framing any future applications to the Tribunal.

**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.

# R.O'Hare

4 October 2024