



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 Mrs Marjory Mitchell in terms of rule 109 of the Rules.

Tribunal Reference FTS/HPC/EV/24/2090

At Glasgow on the 9 September 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 Mrs Marjory Mitchell, the owner of the property at 295E High Street Cowdenbeath Fife KY49QH, ‘the property’, for recovery of possession of the property in terms of Rule 65.
2. The application was undated but received by the Tribunal on 29 April 2024.
3. The in-house convenor reviewed the application and the Tribunal sent a request for further information on 23 May 2024 as follows:

A legal member of the First-tier Tribunal with delegated powers of the Chamber President considers that in order for the Tribunal to be able to process your application further the undernoted information /documentation is required:

- (1) The tenancy agreement and AT 6 document were not sent with the application, please provide them now.
- (2) You made the application under rule 65, which relates to assured tenancies. However, you have not provide a Notice to Quit. The document you sent is a Notice to Leave, which is only valid for Private Residential Tenancies under the Private Housing (Tenancies) (Scotland) Act 2016. Please now provide the Notice to Quit for the tenant together with evidence how and when this was served on the tenant.
- (3) The S 11 notice you provided in not properly completed, you left out the tenancy start date, your landlord registration details and the information about the applicable legislation and the date the application was raised. Please provide a fully completed S 11 notice together with evidence of how and when this was given to the local authority.
- (4) Please clarify the grounds on which the application is made. Your cover email referred to ground 14 but the application to 12 and 13 only, which appear also the matters you raised with the tenant. Please note that without these documents your application will have to be rejected. You may wish to obtain legal advice with regard to this

process. Please reply to this office with the necessary information by 6 June 2024. If we do not hear from you within this time, the President may decide to reject the application

4. The applicant responded on 27 May 2024 by providing a copy of the AT6, tenancy agreement notice to quit and section 11 notice. She also indicated that she was proceeding on grounds 12 and 13. No notice to quit was provided.
5. The in-house convenor reviewed the application again and the Tribunal wrote to the applicant on 1 July 2024 as follows:

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

(1) The notice to quit served is not a valid notice to quit as it does not contain the information required in law to constitute a notice to quit. Please consider withdrawing the application. You may wish to take advice before serving a notice to quit to ensure that it is done correctly, particularly given the terms of the tenancy agreement.

You should be aware of the following:

(1) The Form AT6 only cites ground 12.

(2) You have not provided any evidence to support ground 12, such as a rent statement showing rent due, rent paid and a running total of rent arrears. Please reply to this office with the necessary information by 15 July 2024. If we do not hear from you within this time, the President may decide to reject the application.

6. The applicant contacted the Tribunal on 8 July 2024 asking for all of her correspondence to be returned so she could seek legal advice. She did not respond to the email of 1 July 2024. The Tribunal sent a reminder on 8 August 2024. The applicant contacted the Tribunal on 20 August 2024 to state that she has already provided the requested information to one of the caseworkers.
7. 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. I consider I have good reason to believe it would not be appropriate to accept this application. The application is incomplete as no valid notice to quit and rent statement has been provided. Further, the applicant has failed to respond appropriately to a reasonable request by the Tribunal for further information, and a reminder. The applicant has therefore failed to cooperate with the Tribunal in the execution of its duties. It is open to the applicant to make a new application with the correct supporting information.

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