



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/EV/24/3211

Parties

Mrs Helen Ignatiou (Applicant)

Mrs Karen Green (Respondent)

Flat 2/1, 775 Springfield Road, Glasgow, G31 4HN (House)

Tribunal Member:

Alan Strain (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be rejected on the basis 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 109 on 12 July 2024.
2. The application was considered by the Tribunal and further information was requested by email of 13 August and reminder of 20 September 2024 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 stated the following: 1. It would appear that the Notice to Leave is invalid as an insufficient period

of notice has been given. The period of notice is 84 days plus 48 hours for service by post or email, and the date to be inserted at part 4 is the day after the 84 days plus 48 hours. You have not provided any evidence of service of the Notice, however, it is clear that, even if service was carried out by personal delivery on the date of signing the Notice, the date to be inserted at part 4 would be 5th May. Please consider withdrawing the application and serving a further Notice ensuring that it is completed correctly. You may wish to take advice in this regard. You should also be aware of the following: 2. You must provide evidence of service of the Notice to Leave on both Respondents when making an application. 3. You must provide a section 11 notice together with evidence of service upon the local authority when making an application. 4. You must provide evidence to support the ground of eviction, as set out in the legislation. 5. If you intend to proceed upon a ground that is not in the Notice to Leave (in this case, the ground in the Notice is ground 1, but you have stated ground 1A in the application form), you must apply for permission to include an additional ground and this will be considered at the case management discussion if an application is accepted. 6. The Title Deed shows a joint owner of the property. When making an application, you must confirm whether they are to be a joint Applicant or provide their authorisation to you making the application in your sole name. 7. You should provide the full names of both Respondents when making an application. Please reply to this office with the necessary information by 27 August 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

3. 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."

4. Rule 109 of the Tribunal Procedure Rules provides:

Application for an eviction order

109. Where a landlord makes an application under section 51(1) (for an eviction order) of the 2016 Act, the application must—

(a)state—

- (i) the name, address and registration number (if any) of the landlord;
 - (ii) the name, address and profession of any representative of the landlord;
 - (iii) the name and address of the tenant (if known); and
 - (iv) the ground or grounds for eviction;
- (b) be accompanied by—
- (i) evidence showing that the eviction ground or grounds has been met;
 - (ii) a copy of the notice to leave given to the tenant as required under section 52(3) of the 2016 Act; and
 - (iii) a copy of the notice given to the local authority as required under section 56(1) of the 2016 Act; and
 - (iv) a copy of Form BB (notice to the occupier) under schedule 6 of the Conveyancing and Feudal Reform (Scotland) Act 1970 (if applicable), and
- (c) be signed and dated by the landlord or a representative of the landlord.

The Applicant has failed to provide necessary information. The Tribunal could not grant the order sought.

5. The Tribunal consider that there is 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.

Mrs Helen Ignatiou

1 November 2024

Legal Member/Chair

Date