

**Decision with Statement of Reasons of H Forbes, 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/24/3768**

**Re: 0/2 23030 Dumbarton Road, Yoker, G14 0NL ("the Property")**

**Parties:**

**Kian Northcote ("the Applicant")**

**1-2-let (Lettings & Sales) Ltd ("the Applicant representative)**

**Helen Dillon ("the Respondent")**

**Tribunal Member:**

**H Forbes (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 the application is frivolous in terms of Rule 8(1)(a) of the Procedural Rules, and the Tribunal has good reason to believe it would not be appropriate to accept the application in terms of Rule 8(1)(c) of the Procedural Rules.**

**Background**

1. The application was received by the Tribunal under Rule 66 on 12<sup>th</sup> July 2024 with associated documents. The Applicant was seeking an order for possession.
2. Several requests for further information were made to the Applicant representative, including a request for a Form AT5. No Form AT5 was provided.

**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. On consideration of the above test, the Tribunal considers that this application is frivolous, misconceived and has no prospect of success. The Tribunal also determined that the application should be rejected in terms of Rule 8(c) on the basis that there is good reason to believe it would not be appropriate to accept the application.

### **Reasons for Decision**

5. In terms of section 33 of the Housing (Scotland) Act 1988 ("the Act"), a tenancy is a short assured tenancy if it is for a term of not less than six months and a notice (Form AT5) has been served in terms of section 32(2) before the creation of the tenancy stating that the assured tenancy is a short assured tenancy.
6. In terms of Rule 66 of the Procedural Rules, a copy of the Form AT5 must be lodged with any application for an order for possession.
7. No Form AT6 was lodged with this application despite repeated requests. It is not clear that the assured tenancy is a short assured tenancy, therefore, no order for possession could be granted under Rule 66. Furthermore, the application cannot be accepted without a Form AT5.
8. The application is frivolous and there is good reason to believe it would not be appropriate to accept the application. The application is 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.**

# H Forbes

---

Legal Member/Chair

12<sup>th</sup> December 2024  
Date