



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 26 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Chamber Ref: FTS/HPC/RN/24/4786

Parties:

Mr Richard Watson ("the tenant ")

Trustees of Merrylea Parish Church ("the landlord")

Scottish Property Centre ("the landlord's representative")

Property: House at 4 Pilmuir Avenue, Glasgow G44 3HX ("the Property")

Tribunal Member: Mrs A Devanny, Chamber President

DECISION

The Tribunal rejects the application paperwork submitted by the tenant dated 16 October 2024 and received by the Tribunal on that date. The application is made under Rule 108 of The First tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Procedure Rules") and is an appeal by a tenant against the rent sent by the Rent Officer for a private residential tenancy. The rejection is made under Rule 8(1) (c) of the Procedure Rules.

REASONS

The tenant in this case is seeking to appeal rent set by the rent officer under section 28(1) of the Private Housing (Tenancies) (Scotland) Act 2016 ("the Act").

Section 28(1) states

“Right of appeal to First-tier Tribunal

(1) Where a rent officer has made an order under section 25(1) in relation to the rent payable under a private residential tenancy, the landlord or the tenant may appeal against the order to the First-tier Tribunal.

(2) An order under section 25(1) may not be appealed against—

(a) more than 14 days after the order is made, or

(b) where the order is made by virtue of section 33(2).”

The tenant submitted the appeal paperwork to the Tribunal electronically on 16 October 2024. Amongst the application paperwork is a copy of the rent officer’s order made under section 25(1) of the Act. This order is dated 25 September 2024 and includes the following sentence

“Please note that if you disagree with the rent that I have set you should write to the First-tier Tribunal within 14 days of the date of this letter. The First-tier Tribunal may confirm the rent set by me, increase or reduce it.”

Since the letter from Rent Service Scotland to the tenant is dated 25 September 2024, a valid application under section 28(1) must be submitted to the Tribunal by midnight on 9 October 2024.

The apparent late lodging of the application with the Tribunal was drawn to the attention of the tenant by the Tribunal on 24 October 2024 and the tenant was provided with an opportunity to explain why he believed the tribunal had jurisdiction to deal with the appeal in light of this. No response was received from the tenant despite a reminder sent on 8 November 2024.

The application paperwork has been received out with the time limit set in Section 28(2) of the Act. The Tribunal has no powers to extend or disregard a time limit set down in statute. The application is at the stage of being considered under Rules 5 and 8 of the Procedure Rules. The application is accordingly rejected in terms of rule 8 (1) (c) of the Procedure Rules which states

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—.....

(c) they have good reason to believe that it would not be appropriate to accept the application.

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.

A Devanny

Date: 22 November 2024

