



**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/24/2935**

## **Parties**

**Mr John Guy (Applicant)**

**Ms Karen McConville (Respondent)**

**Mrs Lynette Guy (Applicant's Representative)**

**27 Dunrod Street, Sandyhills, Glasgow, G32 9XH (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 dismissed 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 65 on 27 June 2024.
2. The application was considered by the Tribunal and further information was requested by letters of 24 July 2024, 21 August 2024 and 4 October 2024. The Applicant was asked on 24 July 2024 to:

*“Please provide a mandate from the Applicant authorising you to act on his behalf. 2. It is noted that you do not have a copy of the tenancy agreement but that it is a short assured tenancy that has been in place since 15 September 2015. You have lodged a copy form AT6. The ground for eviction is stated to be “Ground 1A : The landlord intends to sell the property due to increased financial strain and the mortgage being in arrears.” The legislation governing short assured tenancies is the Housing (Scotland) Act 1988. This was amended to introduce a ground 1A but this related to the landlord intending to live in the let property to alleviate hardship. Ground 1A regarding sale of the property to alleviate financial hardship was a ground for eviction under the Private Housing (Tenancies) (Scotland) Act 2016. As the tenancy is a short assured tenancy the 2016 has no application to the tenancy. In any event, the grounds 1A amended into both the 1988 Act and the 2016 Act were repealed with effect from 31 March 2024. It would appear that the AT^ is invalid. Please provide your submission as to its validity. 3. If the application is to proceed the Tribunal will require to have sight of the section 11 notice sent to the local authority, proof of the notice having been sent, such as the covering email, as well as proof of service of the AT6 on the Respondent such as the royal mail proof of delivery.”*

On 24 August 2024 the Applicant was asked:

*“The Tribunal sought further information by email dated 24 July 2024. As regards items 1, and 2, you have indicated that these matters will be addressed on your return from business. Please now address these points. 2. At point 2 of the Tribunal’s email dated 24 July 2024 an issue was raised as regards the validity of the notice served which sought to terminate the tenancy. The AT6 which you have lodged appears to be invalid as it refers to a ground for eviction that is not available under the Housing (Scotland) Act 1988 which is the legislation which governs the tenancy. You have also lodged a copy notice to quit. Please clarify whether a section 33 notice was also served. If a section 33 notice was served, please provide proof of service of the notice to quit and section 33 notice such as the royal mail proof of delivery. 3. It is recommended that you seek legal advice.”*

3. The information was not received. A final reminder was issued to the Applicant on 4 October 2024 which informed the Applicant that if the information was not provided by 18 October 2024 the application may be rejected.

### **Reasons for Decision**

4. 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."*

5. Rule 65 provides for certain information to be supplied with an application:

**Application for order for possession in relation to assured tenancies**

65. Where a landlord makes an application under section 18(1) (orders for possession) of the 1988 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; and

(iv)the possession grounds which apply as set out in Schedule 5 of the 1988 Act;

(b)be accompanied by—

(i)a copy of the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the landlord can give;

(ii)a copy of the notice served on the tenant by the landlord of intention to raise proceedings for possession of a house let on an assured tenancy;

(iii)a copy of the notice to quit served by the landlord on the tenant (if applicable); and

(iv)evidence as the applicant has that the possession ground or grounds has been met; ...

(v)a copy of the notice given to the local authority by the landlord under section 11 of the Homelessness (Scotland) Act 2003 (if applicable), and

(vi)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 failed to produce evidence to support the application that had been requested. The application could not proceed.

6. The Tribunal consider that there is good reason why the application should not be accepted due to the Applicant' failure to provide required information and to co-operate with the Tribunal. 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.**

# A Strain

**19 November 2024**

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**Legal Member/Chair**

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**Date**