



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 application by Mrs Norine Aslam in terms of rule 109 of the Rules.

Case reference FTS/HPC/EV/24/5195

At Glasgow on the 30 January 2025, 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 Norine Aslam for eviction in terms of rule 109 of the Rules. The Application was made on her behalf by Ms Andrena Rowley of Letslet Property Limited on 11 November 2024.
2. The in-house convenor reviewed the Application and the Tribunal wrote to the Applicant’s representative on 11 December 2024 seeking further information as follows:
 - (1) Please provide a full copy of the tenancy agreement. The copy provided does not show the rent terms.
 - (2) Please provide evidence of service of the Notice to Leave on the tenant. Without this the application cannot proceed.
 - (3) Please provide the S 11 notice and evidence how and when this was given to the local authority. S 56 (2) provides that this notice is to be given in the manner and form under section 11 (3) of the Homelessness etc (Scotland) Act 2003. The requirements of such a notice is set out in Regulation 2 and Schedule 1 of The Notice to Local Authorities (Scotland) Regulations 2008 as amended by The Notice to Local Authorities (Scotland) Amendment Regulations 2017. Schedule 1 of the 2008 regulations sets out the format of the form that has to be used. Such a form has not been included in the application documents. Without this the application cannot proceed.

- (4) You have made one application under two different rules (Rule 109 and Rule 65). If you consider that the tenancy is a Private Residential Tenancy please remove all references to rule 65 from the application and refer only to grounds stated in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.
- (5) If you wish to have grounds considered that were not explicitly stated in the Notice to Leave you must make representations as to why you consider the Tribunal should allow the addition of these grounds in terms of S 52 (5) of the 2016 Act. The matter would then be considered at a case management discussion if the application is accepted as valid. S 53(5) states: The Tribunal may not consider whether an eviction ground applies unless it is a ground which—(a)is stated in the notice to leave accompanying the landlord's application in accordance with subsection (3), or (b)has been included with the Tribunal's permission in the landlord's application as a stated basis on which an eviction order is sought.
- (6) If you are seeking to add grounds for non-payment of rent you should provide evidence of how the Pre-action requirements have been complied with. Please reply to this office with the necessary information by 25 December 2024. If we do not hear from you within this time, the President may decide to reject the application.

- 3. The Applicant's representative contacted the Tribunal on 21 January 2025 and stated the following:

The tenant has now left the property, however she has not paid the rent arrears. Do we still continue the case or cancel it. We would need a charge of payment still, she has moved to another property with the local authority.

- 4. The Tribunal sent a further email on 22 January 2025 stating that if the eviction application is not required it should be withdrawn. No reply has been received.
- 5. Rule 8(1) (c) provides that the Chamber President must reject an application if they have good reason to believe it would not be appropriate to accept it. I have good reason to consider that it would not be appropriate to accept this application as it is incomplete and it now appears that the application is no longer required but the Applicant's representative has failed to formally withdraw it.

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