

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rules 8(1) and 26 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Chamber Ref: FTS/HPC/EV/24/4693

2/2, 38 Pleasance Street, Glasgow, G43 1SW ("the Property")

Parties:

**George Saunders ("Applicant")
Sophina Sharif ("Respondent")**

Tribunal Member: Ruth O'Hare (Legal Member) with delegated powers from the Chamber President

Decision

The Tribunal rejects the application by the Applicant received by it on 11 October 2024 under Rule 8(1)(c) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules").

Background

- 1 The Applicant submitted an application under rule 65 of the Rules seeking an eviction order against the Respondent.
- 2 Following review of the application by a Legal Member of the Tribunal, the Tribunal wrote to the Applicant in the following terms:-

"The tenancy agreement is dated January 2024. If the tenancy started then, it cannot be an assured tenancy as all tenancies starting after 1 December 2017 are private residential tenancies under the 2016 Act. However, you have indicated in the section 11 notice that the tenancy started in 2012. Please clarify the position and provide a copy of the original and all subsequent tenancy agreements.

Please also note the following

1. *If a new tenancy was signed after 1 December 2017 the application must be amended to Rule 109 and you must submit a copy of the Notice to leave with evidence that it was served and evidence to support the eviction ground.*

2. *If the tenancy is still an assured tenancy you must submit a copy of a notice to quit and AT6 with evidence of service and evidence to support the eviction ground. Please note that "landlord intends to sell" is not a valid ground under the 1988 Act.*
3. *If the tenancy is a short assured tenancy and you wish to proceed under Rule 66, you must provide the original agreement, the AT5 notice, a valid notice to quit and evidence of service of the notice to quit and section 33 notice.*

You may wish to take legal advice before you respond. Please reply to this office with the necessary information by 20 November 2024. If we do not hear from you within this time, the President may decide to reject the application."

- 3 The Applicant did not respond. On 19 December 2024 the Tribunal wrote again to the Applicant noting the lack of response. The Applicant was asked to confirm whether he wished to provide the information or withdraw the application. The Tribunal advised that if no response was received within 7 days the application would likely be rejected.
- 4 No further response was received from the Applicant.

Reasons for Decision

- 5 The Legal Member considered the application in terms of the Rules and determined that the application should be rejected in terms of Rule 8(1) (c) which states that an application must be rejected if the Tribunal has "good reason to believe that it would not be appropriate to accept the application." The basis of the decision is that the Applicant has failed to provide the information requested by the Tribunal under Rule 5(3) of the Rules which is necessary to meet the required manner for lodgement. The Tribunal has identified defects with the application which have not been addressed by the Applicant. He has been asked for a response on two occasions. He has been advised that in the absence of a response his application will be rejected. Accordingly the Legal Member has concluded that the application cannot be accepted in its current form and must be rejected under Rule 8(1)(c).

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: A party 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.

R O'Hare

Ruth O'Hare, Legal Member
12 February 2025