



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/24/5009

Whinney Knowe, Ruletownhead Farms, Hawick, TD9 8JS ("the Property")

Parties:

Charles Peter ("Applicant")

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 30 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 109 of the Rules and section 51 of the Private Housing Tenancies (Scotland) Act 2016 ("the 2016 Act") seeking an eviction order against the Respondent.
- 2 The Tribunal wrote to the Applicant on 1 November 2024 to advise that the application was incomplete. The Tribunal requested evidence that the notice to leave was given to the tenant, and a section 11 notice with proof that this had been sent to the local authority.
- 3 On 11 November 2024 the Tribunal received information from a third party who was not named on the application. The Tribunal responded to the third party advising it was unable to accept information from persons other than the applicant, and as a result the email had not been processed.
- 4 Following review of the application by a legal member of the Tribunal with delegated powers of the Chamber President the Tribunal wrote again to the Applicant in the following terms:-

“Before a decision can be made, we need you to provide us with the following:

1. If the Applicant is represented the Tribunal must be notified that this is the case and the representatives details provided. Please clarify the position.

2. Please provide an amended application form which specifies the correct ground or grounds. Ground 10 (the tenant has given notice to quit) only applies to assured tenancies under the 1988 Act and case 8 to tenancies under the Rent Scotland Act 1984. It appears from the other documents that the correct ground is ground 5.

3. Please clarify why the tenant’s address is different from the property address. If the tenant has terminated the tenancy and vacated the property, an eviction order is not required.

4. If the application is to proceed please provide

(a) A copy of the section 11 notice with evidence that it was sent to the Council.

(b) Evidence of service of the notice to leave. If this was hand delivered you must confirm when this took place and whether it was handed personally or put through the letterbox.

(c) Evidence in support of the eviction ground such as a signed statement from the family member who intends to live in the let property.

(d) Clarification of the address of the property and evidence of ownership and landlord registration as the address provided could not be located on the Landlord Registration website.

You may wish to take legal advice before you respond. Please respond within 14 days or your application may be rejected.”

5 The Tribunal received no response from the Applicant. On 14 January 2024 the Tribunal wrote again to the Applicant requesting a response to the email of 13 December 2024 by 21 January 2025. The Tribunal advised the Applicant that if he did not respond within that time the application would be rejected.

6 No further response was received from the Applicant.

Reasons for Decision

7 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 Applicant has been asked for the information on three 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.

Ruth O'Hare, Legal Member
21 February 2025