

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of H Forbes, 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/24/5228

Re: 36 East St John's Road, Gourrock, PA19 1PQ ("the Property")

Parties:

Evelyn White ("the Applicant")

Tribunal Member:

H Forbes (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be rejected on the basis that the application is frivolous in terms of Rule 8(1)(a) of the Procedural Rules, and the Tribunal has good reason to believe it would not be appropriate to accept the application in terms of Rule 8(1)(c) of the Procedural Rules.

Background

1. The application was received by the Tribunal under Rule 109 on 13th November 2024 with associated documents. The Applicant stated they were seeking an eviction order under grounds 8, 10, 11, 12, 13 and 14, although the notice to leave had been served under ground 5.
2. The Applicant did not lodge a section 11 notice as required by section 56 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the Act") and Rule 109 of the Procedural Rules. The Applicant did not respond to repeated requests for this document.
3. The Applicant did not lodge evidence to show the eviction grounds had been met as required in terms of Rule 109 despite repeated requests for this evidence.

4. The Applicant failed to lodge a full copy of the tenancy agreement despite repeated requests.
5. The Applicant failed to lodge evidence to show the notice to leave had been served properly upon the Respondent despite repeated requests.
6. The Applicant failed to clarify the correct grounds of eviction despite repeated requests.

Decision

7. 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."

8. On consideration of the above test, the Tribunal considers that this application is frivolous, misconceived and has no prospect of success. The Tribunal also determined that the application should be rejected in terms of Rule 8(c) on the basis that there is good reason to believe it would not be appropriate to accept the application.

Reasons for Decision

9. In terms of section 56 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the Act"), a landlord may not make an application to the First-tier Tribunal for an eviction order against a tenant unless the landlord has given notice of the landlord's intention to do so to the local authority in whose area the let property is situated. No evidence of compliance with this provision was lodged. In terms of Rule 109 a copy of the section 56 notice must be lodged with the application. No section 56 notice was lodged with the application.
10. In terms of Rule 109, evidence showing the eviction grounds have been met must be lodged. No evidence was lodged with the application.

11. The Applicant failed to provide clarity in respect of the grounds of eviction.
12. The application is frivolous and there is good reason to believe it would not be appropriate to accept the application. The application is 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.

Helen Forbes

Legal Member/Chair

20th March 2025
Date