



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/24/5270

Parties

Mr Steven Thomson (Applicant)

28 North Seton Park, Port Seton, East Lothian, EH32 0AH

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 13 November 2024.
2. The application was considered by the Tribunal and further information was requested by letters of 12 December and reminder of 7 February 20254 to:

"1. Please provide your representations as to the validity of serving notices to end an assured tenancy by email. It is also unclear whether the correct period of notice has been given, as, even if email service is valid, a period of 48 hours is usually allowed for such service, which means a full two months' notice was not given for the notice to quit. You may wish to take advice on this matter and provide your representations as to how the application can be accepted in these circumstances. 2. You have made the

application under Rule 65, citing ground 10, but you have provided no Form AT6 or evidence to support ground 10. If the tenant served notice upon you to end the tenancy, and you wish to proceed on this ground, please provide a valid AT6 and a copy of the notice served by the tenant. It may be the case that you wish to proceed under Rule 66, as you have provided a section 33 notice. If the application is to proceed, and you wish to proceed under rule 66, please provide amended pages of the application form showing the correct rule and removing references to ground 10. 3. You have not provided a signed tenancy agreement or Form AT5. If the application is to proceed, please do so. 4. The Title Deed shows a joint owner. You have not included the joint owner in the application form. If the application is to proceed, please provide the name and contact details of the joint owner, or provide a mandate from them authorising you to make the application in your sole name."

3. The information was not received. A final reminder was issued to the Applicant on 7 February 2025 which informed the Applicant that if the information was not provided by 21 February 2025 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.

Alan Strain

28 March 2025

Legal Member/Chair

Date