



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/24/4956

Parties

Mr Craig Mitchell (Applicant)

Re: 42 Culzean Avenue, Coatbridge, ML5 5LP (House)

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 109 on 28 October 2024.
2. The application was considered by the Tribunal and further information was requested by letters of 5 February 2025 and 28 March 2025. The Applicant was asked to:

"The tenancy agreement you have used is not a private sector tenancy but a type of tenancy used by Council's and other social landlords. As it started in 2014 it is likely to be an assured tenancy. However, if a new tenancy was signed after 1 December 2017 this may mean that the tenancy is now a PRT. If this is the case you must provide evidence or a copy of the new agreement.

1. Although you submitted a form F, you have referred to Rule 109 which is the Rule relating to evictions under the 2016 Act. If this is supposed to be an application for a payment order please confirm that you wish to change it to Rule 70. However, if the tenancy is now a PRT (if a new agreement was signed after 1/12/17) then the correct Rule is 111.

2. You may wish to provide an amended form and updated rent statement if the sums due have changed.”

3. The information was not received. The Tribunal informed the Applicant that if the information was not provided by 11 April 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 109 provides for certain information to be supplied with an application:

Application for an eviction order

109. Where a landlord makes an application under section 51(1) (for an eviction order) of the 2016 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 (if known); and

(iv)the ground or grounds for eviction;

(b)be accompanied by—

(i)evidence showing that the eviction ground or grounds has been met;

(ii)a copy of the notice to leave given to the tenant as required under section 52(3) of the 2016 Act; and

(iii) a copy of the notice given to the local authority as required under section 56(1) of the 2016 Act; and

(iv) 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 has failed to provide necessary information. The Tribunal could not grant the order sought.

6. The Tribunal consider that there is good reason why the application should not be accepted due to the Applicant's 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.

A. Strain

30 April 2025

Legal Member/Chair

Date