



Decision and statement of Reasons of the First Tier Tribunal (Housing and Property Chamber)

Under Rule 8 of the First Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ‘the Rules’.

In respect of application by Ms Karen McCabe in terms of rule 70 of the Rules.

Case reference FTS/HPC/CV/25/0303

At Glasgow on the 9 July 2025, Lesley Anne Ward, legal member of the First –Tier Tribunal ‘the Tribunal’ with delegated powers of the Chamber President, rejected the above application in terms of Rule 8(1) (a) and (c) of the Rules

1. This is an application by Ms Karen McCabe in terms of rule 70 for civil proceedings arising out of an assured tenancy agreement for 5 Gretna Loaning, Gretna, DG16 5HY, ‘the property’. The application was dated 22 January 2025 and entered into the case management system on 27 January 2025.
2. The in-house convenor reviewed the application and the Tribunal sent a request for information on 24 February 2025 as follows:

A legal member of the Tribunal has reviewed your applications. Before a decision can be made on whether your applications can proceed to the next stage, we require you to provide the following information:-

- (1) You state that the basis of your claim is the landlord’s failure to register, and you are seeking compensation on that basis. Please explain the legal basis upon which you believe you are entitled to compensation, particularly when the local authority has taken action under the Antisocial Behaviour etc (Scotland) Act 2004 to impose a rent penalty notice. Please also include the amount of compensation you are seeking, with an explanation as to how this has been calculated.
- (2) There are two landlords named on the tenancy agreement. Please confirm if the joint landlord should be named as a joint respondent in the application, and provide an amended application form with his details.

3. The applicant replied on 24 February 2025. She reiterated that her landlord was unregistered but she did not provide any details about the legal basis of her claim or the compensation she was seeking.
4. The Tribunal sent a further request for information on 2 April 2025 as follows:

You have not answered the question as to the legal basis upon which you believe you are entitled to compensation when the local authority has taken action under the Antisocial Behaviour etc. (Scotland) Act 2004 to impose a rent penalty notice. Please address this point and provide legal authority to support your position. You may wish to take further advice on this matter.

5. The applicant replied on 2 April 2025 to state that she had answered the Tribunal's questions and to query if we received her email of 24 February 2025.
6. The Tribunal sent a further request for information on 25 April 2025 as follows:

Your email of 2 April 2025 is acknowledged and has been reviewed and considered. We can also advise you that your previous email of 24 February 2025 was also received and was also considered. Our email to you of 1 April was sent to you after a legal member had considered your initial response dated 24 February. Neither of your responses answer the questions which have been raised. You have not provided any legal basis for the application in which you seek compensation only on the basis that your landlord was not registered (case reference FTS/HPC/CV/25/0303) You were asked to explain the legal basis upon which you believe you are entitled compensation particularly when the local authority has already taken action under the relevant legislation to impose a rent penalty notice. Please explain the legal basis of this application and the amount of compensation which you claim should be awarded.

7. The applicant wrote to the Tribunal on 11 May 2025 reiterating her position about her landlord being unregistered.
8. The Tribunal sent a further request for information on 10 June 2025 as follows:
 - You have not answered the specific questions put to you in the previous requests for further information, the last of which is attached hereto. This is a final opportunity for you to provide the information. You may wish to seek assistance from your advisor at Shelter Scotland before responding. If the information is not provided as requested, the applications are likely to be rejected.

9. The applicant responded on 19 June 2025 by sending a series of screenshots of communications between her and Shelter. The applicant also submitted a copy of her tenancy agreement and copies of rent abatement notices. No further information has been provided.
10. Rule 8(1)(a) of the Rules allows an application to be rejected by the Chamber President if ***“they consider that an application is vexatious or frivolous”***.
11. “Frivolous” in the context of legal proceedings is defined by Lord Justice Bingham in R-v- North West Suffolk (Mildenhall) Magistrates Court (1998) Env.L.R.9. At page 16 he states:- “What the expression means in this context is, in my view, that the court considers the application to be futile , misconceived, hopeless or academic”.
12. I consider that this application is frivolous or vexatious and has no reasonable prospect of success as the applicant has failed to provide a legal basis for her claim or any details of the compensation she is seeking, despite a detailed request being sent by the Tribunal and several reminders. Further, in terms of Rule 8(c) of the rules I have good reason to consider that it would not be appropriate to accept this application as it is incomplete and the applicant has failed to cooperate with the Tribunal in the execution of its duties.

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:

An applicant 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.

Lesley Anne Ward

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Legal Member