



**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/25/0306.**

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:-

You state that the basis of your claim is the landlord’s failure to comply with the repairing standard and you are seeking compensation. Please explain the legal basis upon which you believe you are entitled to compensation. Please also include the amount of compensation you are seeking, with an explanation as to how this has been calculated. If you are seeking to recover any losses you have incurred as a result of the landlord’s failure to comply with the repairing standard please provide vouching in support of this.

IF you believe the landlord has failed to comply with the repairing standard you can instead make an application to the Tribunal under rule 48 for a repairing standard enforcement order.

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.

Residential tenancies can be complex and it may benefit you to seek advice from a solicitor or advice agency before providing your response. The Tribunal cannot provide you with legal advice as a fair and impartial body but there are details of advice agencies available under the Useful Links section of our website.

3. The applicant replied on 24 February 2025. She reiterated that she took issue with the condition of the property, and stated she was seeking the repayment of twelve months rent, but she did not provide any details about the legal basis of her claim.
4. The Tribunal sent a further request for information on 2 April 2025 as follows:

You have stated you are seeking the repayment of 12 months' rent. It is not clear whether this relates to both applications. Again, you have not stated the legal basis upon which you believe you are entitled to an abatement of the full rent for a year. Was the property uninhabitable for a year? Please provide representations as to the basis of your claim and how any compensation has been calculated. 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:

you are asked to provide an explanation of a method of calculation of the sum you are claiming. You seem to be claiming a repayment of 12 months' rent. You have provided no evidence relating to the state of this repair of the property other than a single pro forma report apparently prepared by the local authority in November 2024. You were asked indicate whether you are seeking to recover any losses which arose as a result of the landlord's alleged failure to comply with the repairing standard. You have provided no such detail. Please explain the legal basis for your claim that you are entitled to a repayment of 12 months' rent?

It is noted that you have now removed from the property.

It is noted that you indicate in one of your responses that you had discussed matters with Shelter Scotland. Did you obtain actual advice from an advisor or did you simply check their website?

It was suggested to you that these matters are complicated and that you might wish to seek advice from a solicitor or an advice agency prior to responding.

The tribunal are happy to allow your further time to respond to these queries and would strongly suggest that you now seek independent legal advice prior to doing so. The various legal members who has reviewed your applications have all expressed a view that your claim where you are seeking compensation simply because your landlord was not registered is one which appears to have no basis in law.

7. The applicant wrote to the Tribunal on 11 May 2025 reiterating her position.
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, 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

Lesley Anne Ward

Legal Member