

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/25/0669

Re: 13 Glen Garry Court, Dumbarton, G82 2NQ ("the Property")

Parties:

Christopher Kennedy ("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 17th February 2025 with associated documents. The Applicant sought an eviction order.
2. Further documents were sought from the Applicant, including a notice to leave, and an amended application form.
3. By email dated 1st April 2025, the Applicant lodged an amended application form stating the grounds of eviction to be grounds 8, 8A, 10, 11, 12, 13 and 15. The Applicant also lodged a copy of a document purporting to be a notice to leave, stating eviction was sought on grounds 1, 11, 12 and 13. The document was not in the form required by the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act"). The Applicant lodged an incomplete copy of the tenancy agreement between the parties.

4. Further opportunities were afforded to the Applicant to produce a valid notice to leave, clarification in respect of the grounds of eviction, and evidence to support the grounds of eviction. The Applicant failed to respond to the calls for further information. The Applicant was informed that failure to respond may lead to rejection of the application.

Decision

5. 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."

6. 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

7. Section 62 of the 2016 Act provides that a notice to leave must be in writing and specify the day on which the landlord expects to become entitled to make an application for an eviction order. It must also state the eviction ground or grounds and fulfil any other requirements prescribed by Scottish Ministers in regulations.
8. The document served is in writing and specifies a date when the tenant must leave the premises. The document is dated 18th December 2024 and requires the tenant to leave by 31st January 2025. The tenancy appears to have commenced in or around May 2021, therefore, the period of notice given is not sufficient to satisfy an application made under ground 1. The document is not in the required form and does not fulfil the requirements prescribed by Scottish Ministers in regulations.

9. The application is not accompanied by evidence to support the grounds of eviction as required by Rule 109 of the Procedural Rules.
10. 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.

H Forbes

Legal Member/Chair

17th July 2025
Date