

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of Karen Moore, 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 (Procedure) Regulations 2017 (“the Rules”)

Case reference FTS/HPC/EV/25/0199

Parties

Mrs Elspeth Adair (Applicant)

5 Moyne Road, Pollock, Glasgow, G53 5RT (House)

Karen Moore (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 on 17 January 2025 under Rule 65 of the Tribunal Rules ,later amended to Rule 109 and Section 18 off the Housing (Scotland) Act 1988 (“the 1988 Act”).
2. The application was considered by the Tribunal and found to be defective as it did not conform to the Tribunal Rules nor did it proceed on the correct statutory basis. The Applicant was contacted by email on 20 February 2025, 28 March

2025, 3 and 29 April 2025 and 6 June 2025 which emails set out clearly the various defects in the application and the information and documentation required to allow the application to proceed. In these emails the Applicant was advised that, if the information and documentation were not submitted, the application was likely to be rejected and advice was given that legal advice should be taken. The Applicant was advised to consider withdrawing the application.

3. Although the Applicant replied to some of the emails, she did not provide the necessary information and did not evidence compliance with the statutory regime set out in the 1988 Act. No indication was given that the correct information and documentation would or could be submitted to comply with the 1988 Act or the Tribunal Rules. The last email from the Applicant evidenced that a Notice to Quit has not yet expired and so evidences that the application is premature.

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. The Tribunal cannot grant the application if it is incomplete, proceeds on the wrong basis and does not conform to the Tribunal Rules. As the Applicant has been given clear information on the defects in the application and has failed to correct the defects, and, as she has been given fair notice that failing to do so might mean that the application might be rejected, the Tribunal considers that

there is no prospect of the application being acceptable in terms of the Tribunal Rules. Accordingly, there is good reason to believe that it would not be appropriate to accept the application and so 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.

Karen Moore

Legal Member

17 July 2025