



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 Mr Andy Tasker in terms of rule 111 of the Rules.

Case reference FTS/HPC/CV/22/0623

At Glasgow on the 16 June 2022, 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 Mr Andy Tasker of Concept Live Ltd to recover rent arrears in terms of rule 111. The application was made on his behalf by Mr Jonathan Lee of Be-rented Ltd. It was incomplete.
2. The inhouse convenor reviewed the application and the tribunal wrote to the applicant on 18 March 2022 seeking further information as follows:

1. Please confirm the identity of the landlord as the registered landlord and landlord designated in the lease are different to the Applicant.

2. Please submit an application for service by advertisement if the Respondent’s address is unknown. A copy of the application form can be obtained from the tribunal website. You must submit evidence of attempts to trace the Respondent (such as a trace report from sheriff officers) along with an application for service by advertisement.

3. A reminder was sent on the 21 April 2022. The applicant’s representative responded on 22 April 2022 with landlord registration details for the property. The tribunal wrote a further detailed letter on 11 May 2022 as follows:

'Your further information has been assessed by a legal member who has requested the following information or documentation:

- 1. We have been unable to trace the Title Deed for the property. Please see the attached screenshot from Registers of Scotland. There is no address that corresponds with the address of the property as provided in the application form and lease. Please confirm whether any of the addresses listed are the correct address for the property. Please also provide details of the date of acquisition by the Applicant of the property.*
- 2. The landlord registration number provided does not provide any results on the Scottish Register of Landlords. Please provide evidence of landlord registration.*
- 3. You must now make an application for service by advertisement using the form that is available on our website.*
- 4. Please provide written authorisation from the Applicant authorising you to make and progress the application on their behalf.'*

4. No response has been received.
5. 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”***.
6. ***“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”***.
7. I consider that this application is frivolous or vexatious and has no reasonable prospect of success as the essential information required for it to proceed has not been provided, despite two detailed request being sent by the tribunal. As things currently stand, Mr Lee has not exhibited a mandate authorising him to act and the applicant is not the landlord contained in the tenancy agreement. No address for the respondent has been given and an application has not been made for service by advertisement. The applicant may not be the owner of the property as the title deeds have not been exhibited.
8. 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’s representative has failed to cooperate with the tribunal in the execution of its duties.
9. It is open for Mr Tasker to resubmit the application with the correct supporting documentation.

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.

L. W

Lesley Anne Ward

Legal Member