



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 R and R Co Estates Ltd in terms of rule 111 of the Rules.

Case reference FTS/HPC/CV/23/0626

At Glasgow on the 19 June 2023, 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 R and R Co Estates Ltd in terms of rule 111 for civil proceedings arising out of a private residential tenancy agreement for 153 Arden Court Hamilton ML3 6TX, ‘the property’. The application was made on behalf of the Applicant by Mr William Dodd of M.A.S.K. Property Management Ltd on 1 March 2023.
2. The inhouse convenor reviewed the application and the tribunal wrote to the Applicant’s representative on 21 March 2023 seeking further information as follows:

- (1) The Tribunal requires an address for the Respondent, failing which, an application for Service by Advertisement. It is noted that you have obtained a negative trace report. Please see our website for the application form for applying for Service by Advertisement.
- (2) Please provide a signed mandate from the Applicant authorising you to make this application on their behalf.
- (3) It is noted that the invoice for removal of items is an invoice from the representative to the Applicant, with no detail as to the work carried out. The Tribunal is likely to require further evidence at the Case Management Discussion in this regard to justify the sum sought.
- (4) Please provide evidence of landlord registration if available.
- (5) Please confirm whether the deposit was returned to the Applicant, and make allowances for that in the rent statement if appropriate.

3. The Applicant's representative contacted the tribunal several weeks later, on 17 April 2023 indicating that the tribunal request had gone into their spam folder and inquiring how they should proceed. The tribunal sent a reminder on 24 April 2023 asking for a response to the letter of 21 March 2023. No response has been received and the tribunal have heard nothing further from the Applicant's representative.
4. 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***".
5. "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".
6. 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 a detailed request being sent by the tribunal and a reminder. As things stand the Applicant's representative has not demonstrated that he is instructed in this matter by the owner of the property. 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.
7. It is open for the Applicant 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 Ward

Lesley Anne Ward

Legal Member