



**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 Rock Property Investments Scotland Ltd in terms of rule 111 of the Rules.

**Case reference FTS/HPC/CV/23/0721**

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 Rock Property Investments Scotland Ltd in terms of rule 111 for civil proceedings arising out of a private residential tenancy agreement for 400 King Street Top floor Left Aberdeen AB24 3BY, ‘the property’. The application was made on behalf of the Applicant by Winchester Lettings Limited on 9 March 2023.
2. The inhouse convenor reviewed the application and the tribunal wrote to the Applicant’s representative on 31 March 2023 seeking further information as follows:

Thank you for your application which has been passed to a legal member who has requested the following information:-

- (1) Can you please provide a proper address for the Applicant? A care of address is not sufficient in terms of our rules. You may wish to use the Applicants registered office address but please clarify?
- (2) Please let us have a mandate authorising you to act for the Applicant in these proceedings
- (3) You have advised that you do not have an address for the first Respondent. If he cannot be traced you can apply to serve the application by completing a service by advertisement form which you can find on our website. Please note however you will also have to supply evidence from sheriff officers or a tracing agent that you have tried and failed to trace him. Please let us have your response within 14 days so that your application can be further considered.

3. The Applicant's representative contacted the tribunal on the same day providing further information. They also stated that they had copied the Applicant into the email and they would respond giving approval for Winchester Lettings Limited to act on their behalf. An email was received on 3 April 2023 from Steven Clark stating 'Please allow Winchesters to act on my behalf'.
4. The in-house convenor reviewed the application and the further information received and a further detailed letter was sent on 9 May 2023 as follows:

Your application has been reviewed by a legal member of the First-tier Tribunal with delegated powers of the Chamber President who has raised the following matters

The mandate purportedly authorising you to act does not appear to come from the named landlords, Rock Property Investments Scotland Limited. Please provide a mandate from a duly authorised official or director of that company on that company's notepaper or from an email address directly linked to the company. The tribunal notes the terms of a report dated 2 March 2023 that sheriff officers cannot trace the first named respondent. Without a current address for this respondent it will not be possible for the tribunal to serve papers on them in respect of any hearing relating to the applications. In those circumstances you now require to apply to the tribunal to have notice of the application served on the former tenant by means of advertisement on the tribunal website. The application form can be found here

<https://www.housingandpropertychamber.scot/sites/default/files/hpc/SERVICE%20BY%20ADVERTISEMENT%20REQUEST.pdf>

guidance can be found here

<https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.housingandpropertychamber.scot%2Fsites%2Fdefault%2Ffiles%2Fhpc%2FGuidance%2520on%2520service%2520by%2520advertisement.docx&wdorigin=BROWSELINK>

Your application will be held in abeyance and cannot be progressed further until you lodge this application. Please do so as quickly as possible. Upon receipt of the above information, a final decision can then be taken on whether your application is valid and whether it should be accepted and referred to the tribunal for full determination. You should be aware that the Tribunal has the power to reject applications on grounds set out in rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2. Please reply to this office with the necessary information by 23 May 2023. If we do not hear from you within this time, the President may decide to reject the application.

5. The Applicant's representative contacted the tribunal on 11 May 2023 stating that the owner of the Applicant's company would be in touch with authorisation. No response was received and the tribunal sent a further email on 19 May 2023 stating that the authorisation was awaited. Nothing further has been received from the Applicant or their representative.

6. Rule 8(c) of the rules allows the Chamber President to reject an application if they have good reason to consider that it would not be appropriate to accept it. As things stand the Applicant's representative have not demonstrated that they instructed in this matter by the owner of the property despite two detailed requests and one reminder being sent by the tribunal. I have good reason in terms of Rule 8(c) of the rules to consider that it would not be appropriate to accept this application as the Applicant's representative have failed to confirm they are instructed and they have also 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