



Decision 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/20/0884

Re: Property at 3/3 Duke Street, Hawick, TD9 9PY (“the Property”)

Parties:

DAB Housing, The Long House, Dunsyre road, Newbigging, ML11 8NA (“the Applicant”)

Mr Scott Loudon, 3/3 Duke Street, Hawick, TD9 9PY (“the Respondent”)

1. On 11 March 2020, an application was received from the applicant. The application was made under Rule 65 of the Procedural Rules, being an application for recovery of possession of an assured tenancy under the Housing (Scotland) Act 1988. The following documents were enclosed with the application:-
 - (i) Form AT6,
 - (ii) Form AT5,
 - (iii) notice to quit,
 - (iv) tenancy agreement,
 - (v) rent statement

2. By letters from the Tribunal dated 29 April, 27 July, 26 August, 11 September and 15 October all 2020 the Tribunal requested further information regarding the following matters, a complete copy of the Form AT6, a copy of a notice to quit in the prescribed format.

3. The applicant failed to provide the further information requested.

DECISION

4. I considered the application in terms of Rule 8 of the 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;
- (b) the dispute to which the application relates has been resolved;
- (c) they have good reason to believe that it would not be appropriate to accept the application;
- (d) they consider that the application is being made for a purpose other than a purpose specified in the application; or
- (e) the applicant has previously made an identical or substantially similar application and in the opinion of the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, there has been no significant change in any material considerations since the identical or substantially similar application was determined.

(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. After consideration of the application, the attachments and correspondence from the applicant, I consider that the application should be rejected on the basis that I have good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

REASONS FOR DECISION

- 6. The Tribunal has requested further information to support the application from the applicant. The applicant has not provided information to show that the tenant received a notice to quit in the prescribed format; and further to demonstrate that the tenant was provided with a copy of an AT6 Form showing the earliest date that proceedings could be raised.
- 7. I consider that the applicant's failure to provide this information to support the application, as requested by the Tribunal, gives me good reason to believe that it would not be appropriate to accept the application in circumstances where the applicant is apparently unable to do so in order to progress this application.
- 8. Accordingly, for this reason, this application must be rejected upon the basis that I have good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

What you should do now

If you accept the Legal Member's decision, there is no need to reply.

If you disagree with this decision:-

An applicant aggrieved by the 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 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. Information about the appeal procedure can be forwarded to you on request.

M. B

Melanie Barbour
Legal Member
3 November 2020