



Decision with Statement of Reasons of Alan Strain, 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 5 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules")

Chamber Ref: FTS/HPC/CV/19/0945

Re: 12 Grange Road, Stevenston, KA20 3EA ("the Property")

Parties:

Mrs Lorraine Frye ("the Applicant")

Miss Elizabeth Mullen ("the Respondent")

Tribunal Member:

Alan Strain (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should not be accepted in accordance with Rule 5 (4) of the Procedural Rules.

Background

1. The application was received by the Tribunal under Rule 70 on 25 March 2019. The application sought payment in respect of rent arrears and damage to the Property. No documents were enclosed with the application.
2. On 27 March 2019 the Application was considered by the Tribunal and a request for further information issued. The Applicant was requested to provide the following:
 - (i) Evidence to support the application; and
 - (ii) A copy of any relevant document.

A Strain

The Applicant was requested to provide the information by 3 April 2019 failing which the application may not be accepted.

3. The Applicant did not respond. The Tribunal considered the Application again on 30 April 2019 and asked for the following:
 1. A copy of the tenancy agreement;
 2. Statement showing rent due, paid and any balance;
 3. Copy receipts for repairs and cleaning; and
 4. Evidence of the damage to the Property.

The Tribunal gave the Applicant until 14 May 2019 to respond. No response was received.

Reasons for Decision

4. The Tribunal considered the application in terms of Rule 5 of the Chamber Procedural Rules. That Rule provides:-

“Requirements for making an application

5.—

(1) An application is held to have been made on the date that it is lodged if, on that date, it is lodged in the manner as set out in rules 43, 47 to 50, 55, 59, 61, 65 to 70, 72, 75 to 91, 93 to 95, 98 to 101, 103 or 105 to 111, as appropriate.

(2) The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged in the required manner by assessing whether all mandatory requirements for lodgement have been met.

(3) If it is determined that an application has not been lodged in the prescribed manner, the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, may request further documents and the application is to be held to be made on the date that the First-tier Tribunal receives the last of any outstanding documents necessary to meet the required manner for lodgement.

(4) The application is not accepted where the outstanding documents requested under paragraph (3) are not received within such reasonable period from the date of request as the Chamber President considers appropriate.”

5. An application under Rule 70 requires specified documentation to be lodged with it:

“Application for civil proceedings in relation to an assured tenancy under the 1988 Act

- 70. Where a person makes any other application to the First-tier Tribunal by virtue of section 16 (First-tier Tribunal’s jurisdiction in relation regulated and assured tenancies etc.) of the 2014 Act, the application must—

(a)state—

A Strain

- (i) the name and address of the person;
 - (ii) the name and address of any other party; and
 - (iii) the reason for making the application;
- (b) be accompanied by—
- (i) evidence to support the application; and
 - (ii) a copy of any relevant document; and
- (c) be signed and dated by the person.”

6. In this Application the Applicant has been requested to provide information and documentation necessary for acceptance of the application. She was given a reasonable period of time to do so and has not done so. In accordance with Rule 5(4) of the Tribunal Procedure Rules the Tribunal considers that the Application should not be accepted.

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.

Alan Strain

Legal member

Date

23 May 2019