



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 Miss Jurgita Friis-Jorgensen in terms of rule 109 of the Rules.

Case reference FTS/HPC/EV/22/0959

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 Miss Jurgita Friis-Jorgensen for eviction in terms of rule 109. The application was made on her behalf by Mr Stuart Miller of Northwood Edinburgh Ltd. It was incomplete.
2. The inhouse convenor reviewed the application and the tribunal wrote to the applicant on 21 April 2022 seeking further information as follows:

Before a decision can be made, we need you to provide us with the following:

- 1. Please provide an address for the Applicant, a care of address cannot be used.*
- 2. Please provide a notice to leave for Stuart Thomson as the notice lodged only refers to the other Respondent.*
- 3. Please provide evidence of service of the Notices to leave.*
- 4. Please provide evidence that the section 11 notice was sent to the Local Authority.*
- 5. Please provide a mandate authorising you to submit the application on behalf of the Applicant*
- 6. Please provide evidence in support of the eviction ground.*
- 7. The title deeds indicate that the property is owned by Jurgita Grusaite. Please confirm if this is the same person as the Applicant and clarify why the name has changed. Please reply to this office with the necessary information by 5 May 2022. If we do not hear from you within this time, the President may decide to reject the application.*

3. The applicant's representative responded on 26 April 2022. There continued to be outstanding matters and the tribunal wrote a further detailed letter on 18 May 2022 as follows:

Before a decision can be made, we need you to provide us with the following:

1. *A notice to leave must be given to all of the tenants. It is not enough to serve the notice on the lead tenant. Please provide evidence that a valid Notice to leave has been given to the joint tenant or confirm if you wish to withdraw the application and re-submit it once a notice has been served,*
 2. *You have submitted a post office receipt as evidence of service. Please provide a track and trace report or other evidence of delivery.*
 3. *You have submitted a further section 11 notice which only names one of the tenants. Please confirm which notice was sent to the Local authority.*
 4. *The emails you have submitted do not establish the Applicant's intentions regarding the property. Please provide evidence that the Applicant intends to market the property for sale. Please reply to this office with the necessary information by 1 June 2022. If we do not hear from you within this time, the President may decide to reject the application*
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, there is no evidence of the eviction ground being met and it does not appear that the notice to leave was served on both tenants.
 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 Miss Friis-Jorgensen 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