



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 Mr Saadat Khan in terms of Rule 65 of the Rules.

Case reference FTS/HPC/EV/22/2192

At Glasgow on the 11 November 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 Mr Saadat Khan to recover possession of the property at 133 Craigton Road Glasgow G51 3RH, in terms of Rule 65 of the Rules. The application was initially made by Miss Cara Teven trainee solicitor of Jones Whyte LLP and thereafter by Ms Claudia Hoey of that firm.
2. The application was dated 5 July 2022. There was a second application (FTS/HPC/CV/22/2193) in respect of rent arrears.
3. The application was accompanied by only a document purporting to be a notice to quit and a covering letter. The application was therefore incomplete and tribunal sent a letter on 6 July 2022 as follows:

The following further information is required from you before your application can proceed to the Chamber President for consideration:

- A copy of the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the landlord can give

- A copy of the notice served on the tenant by the landlord of intention to raise proceedings for possession of a house let on an assured tenancy (AT6)
- Evidence as the applicant has that the possession ground or grounds has been met
- a copy of the notice given to the local authority by the landlord under section 11 of the Homelessness (Scotland) Act 2003(13) (if applicable), and Please reply to this office with the necessary information by 13 July 2022, otherwise the application may be rejected.

4. Ms Hoey responded on 19 July 2022. She stated in her email that she was sending the tenancy agreement, AT5, AT6 and a letter to the tenant regarding the rent arrears. The only documents received were the AT5 and a letter regarding rent arrears. The tribunal wrote on 25 July 2022 to point out that the documents referred to in her email were not attached. No reply was received.

5. The in-house convenor reviewed the application on 12 August 2022 as follows:

I refer to your recent application which has been referred to the Chamber President for consideration. Before a decision can be made, we need you to provide us with the following:

- Please provide proof of service of the Notice to Quit and Section 33 Notice on the Respondent.
- Please provide a copy of the section 33 Notice.
- Please provide a copy of and proof of service of the section 11 notice on the local authority.
- Please provide your submissions on the validity of the Notice to Quit given that it purports to be a notice to leave and does not therefore contain the prescribed statutory wording.
- Please provide a copy of the tenancy agreement.
- Please provide a rent statement showing dates and amounts of rent due, dates and mounts of rent paid and a running total of arrears.
- Please provide evidence in support of Ground 13.
- Please confirm whether the application is proceeding under Rule 65 or 66.

6. No response was received. The tribunal sent a reminder on 3 October 2022 requesting the outstanding information within 14 days. . No response has been received.

7. This application is incomplete as it stands. It is not clear the notice to quit is valid and no proof of service of the notice to quit and s33 notice has been lodged and there is no tenancy agreement or s11 notice. .

8. 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”**. “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”.

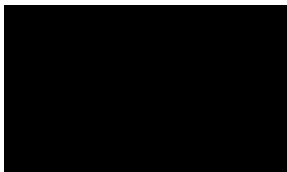
9. I consider that this application is hopeless and has no reasonable prospect of success for the reasons given above. The essential information has not been provide despite two reasonable requests. Further, in terms of Rule 8(c) of the rules I have good reason to consider that it would not be appropriate to accept this application as the applicant's solicitors have failed to cooperate with the tribunal in the execution of its duties.

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.



Lesley Anne Ward

Legal Member