

Housing and Property Chamber
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF ANDREW UPTON, LEGAL MEMBER OF THE
FIRST-TIER TRIBUNAL WITH DELEGATED POWERS OF THE CHAMBER PRESIDENT**

Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules
of Procedure 2017 ("the Procedural Rules")

in connection with

2/3, 2 Torridon Drive, Renfrew, PA4 0US

Case Reference: FTS/HPC/EV/18/1570

Mr Jagdish Singh Panpher ("the applicant")

Miss Christina McDonald ("the respondent")

1. On 25 June 2018, an application was received from the applicant. The application was made under Rule 109 of the Procedural Rules being an application for an eviction order. The following documents were enclosed with the application:-
 - Copy notice to quit dated 24 May 2018
 - Copy notice to leave dated 24 May 2018
 - Copy notice to Local Authority dated 10 May 2018
 - Copy email demand for unpaid rent dated 24 May 2018
 - Copy email demand for unpaid rent dated 25 June 2018
 - Copy bank statements dated 28 March 2018, 28 April 2018 and 25 May

2018

- Copy Housing Benefit Remittance Advice dated 9 May 2018 and 30 May 2018

By letters dated 4 and 18 July 2018, the Tribunal requested further information from the applicant. The applicant's representative responded by emails dated 4 and 19 July 2018.

DECISION

2. 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."

3. 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


4. The Tribunal has requested further information from the applicant in order to consider whether or not the application must be rejected as frivolous within the meaning of Rule 8(1)(a) of the Procedural Rules. '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*". It is that definition which I have to consider in this application in order to determine whether or not this application is frivolous, misconceived, and has no prospect of success.
5. In the correspondence from the Tribunal to the applicant, it was noted that the notice to leave produced by the applicant appeared to be incomplete. In particular, Part 4 did not specify a date being the earliest date upon which an application to the Tribunal could be made. The applicant's representative, in her email of 4 July 2018, explained that the failure to specify a date in the notice to leave was "an administrative oversight".
6. It is my view that the failure to specify a date in the notice to leave renders the notice invalid. It follows that the applicant cannot rely upon this notice to leave.

7. 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.



Andrew Upton
Legal Member
23 July 2018