



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 Direct Lettings (Scotland) Ltd on behalf of Pal Residential Investments III LP in terms of Rule 66 of the Rules.

Case reference FTS/HPC/EV/22/2682

At Glasgow on the 7 October 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) of the Rules.

1. This is an application by Direct Lettings (Scotland) Ltd on behalf of Pal Residential Investments III Ltd to recover possession of the property at 107 Millhill Musselburgh on the expiry of a short assured tenancy, in terms of Rule 66 of the Rules.
2. The application was accompanied by the following:
 1. Tenancy agreement for let of the property from 30 January 2015 until 1 February 2016 and month to month thereafter.
 2. Notice to quit dated 18 May 2022 with an ish date of 30 July 2022.
 3. AT5
3. The application was reviewed by the in-house convener and it was noted that the notice to quit did not appear to tie in with the ish date. A letter requesting further information was sent on 6 September 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: 1. Please provide proof of service of the Notice to Quit and Section 33 Notice. 2. Please confirm why you consider the Notice to Quit is valid given the ish date is 30th July 2022 and the ish in terms of the tenancy agreement appears to be the first of the month. Please reply to this office with the necessary information by 20 September 2022. If we do not hear from you within this time, the President may decide to reject the application.

4. The applicant's representative replied on 12 September 2022 and stated that had spoken to their legal team and have decided to re-serve the notice to quit and s33 notice with the correct ish date. They have not withdrawn the application.
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*'. "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".
6. I consider that this application is hopeless and has no reasonable prospect of success as the notice to quit does not tie in with the ish date. The applicant's representative have acknowledged this and intend to serve fresh documents. This application is therefore at an end. As it has not been withdrawn, in accordance with the overriding objective I am rejecting it.

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