



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 Edward Nisbet and Mrs Andrea Girvan in terms of Rule 66 of the Rules.

Case reference FTS/HPC/EV/22/2808

At Glasgow on the 14 December 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 Edward Nisbet and Mrs Andrea Girvan to recover possession of the property at 4 Saughs Road Robroyston G33 1HH, in terms of Rule 66 of the Rules. The application was initially made on their behalf by Miss Erin Rodgers of Coda Estates.
2. The application was incomplete and the notice to quit did not tie in with the ish date.
3. The applicants' representative served new notices but they were lodged with the tribunal chamber before the notices expired and the in-house convener considered the application was premature. They were invited to withdraw the application. The applicants or their representatives have failed to withdraw this application.
4. The applicants' representative lodged a new application with the tribunal which was allocated reference FTS/HPC/EV/22/4252. The new application is in the same terms with the same parties and with the same notices.
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 for the reasons given above. 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 there is a separate application before the tribunal dealing with the same matter and the applicants’ representative has failed to withdraw this application.

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 Ward

Lesley Anne Ward

Legal Member