



Decision with Statement of Reasons of Alan Strain, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber)

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

Chamber Ref: FTS/HPC/CV/23/0794

Re: 6 Bourock Square, Barrhead, Glasgow, G78 2NQ ("the Property")

Parties

Mrs Alison Foster (Applicant)

Miss Cheryl Brown (Respondent)

Tribunal Member:

Alan Strain (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be dismissed on the basis that it would not be appropriate to accept the application in terms of Rule 8(1)(c).

Background

1. The application was received by the Tribunal under Rule 111 on 13 March 2023.
2. The application was considered by the Tribunal on 14 March 2023. The Applicant was asked to provide a copy of the tenancy agreement. No response was received.

On 3 April 2023 the Tribunal emailed the Applicant and requested further information as follows:

"We refer to our letter of 14 March 2023 seeking a copy of the tenancy agreement, to which we have received no response. Please provide a copy of the tenancy agreement in order that your application can proceed. We also note that the property is owned jointly between you and Glen Foster. Please provide either (i) written

consent from Glen Foster that he consents to the application or (ii) an amended application form reflecting there being joint applicants and signed by both parties. ”

3. The Applicant responded to advise the tenancy agreement had been misplaced. The Tribunal wrote to the Applicant on 11 April 2023 and requested the Applicant provide as much information about the tenancy agreement as possible to the Tribunal in order for your application to be considered.

No response was received. The Tribunal issued reminder 22 May 2023 in the following terms:

“Your application has been further reviewed by a legal member of the First-tier Tribunal with delegated powers of the Chamber President who has raised the following matters: It is noted that you have failed to respond to our request dated 11 April 2023 seeking further information regarding your application. Please respond to this letter within the next two weeks failing which the tribunal is likely to have no option but to reject the application on the basis of your failure to provide the necessary information requested by the tribunal. You should be aware that the Tribunal has the power to reject applications on grounds set out in rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. Please reply to this office with the necessary information by 5 June 2023. If we do not hear from you within this time, the President may decide to reject the application.”

No response was received.

Reasons for Decision

4. The Tribunal considered the application in terms of Rule 8 of the Chamber 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;·
(c) they have good reason to believe that it would not be appropriate to accept the application;

(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."

5. The application seeks to proceed under Rule 111. The Applicant has failed to provide necessary information as detailed in paragraph 2 above. The Tribunal cannot grant an order under Rule 111 without the information requested.

6. The Tribunal consider that the failure to provide the required information constitutes good reason why the application should not be accepted. The application is accordingly rejected.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal 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.

Alan Strain

28 June 2023

Legal Member/Chair

Date