



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/EV/23/0572

Re: 59 Lochtyview Way, Thornton, Fife, KY1 4BL (Property)

Parties

Mrs Christine Douglas (Applicant)

Mr David Perry, Ms Hayley Clark (Respondent)

Stirling Property Shop (Applicant's Representative)

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 109 on 22 February 2023.
2. The application was considered by the Tribunal and further information was requested by letters of 20 March 2023 and 9 May 2023 as follows:

"Before a decision can be made, we need you to provide us with the following: 1. The Registered Landlord is not the Applicant. Please explain on what basis the Applicant has let the Property. 2. Please provide written authorisation from the joint owners of the Property for you to act in this matter. 3. Please provide a signed and dated version

of the Notice to Leave. 4. The Cost of Living (Tenant Protection)(Scotland) Act 2022 applies to your application for eviction. We have attached information on the options available to you and ask you to respond. Please reply to this office with the necessary information by 3 April 2023. If we do not hear from you within this time, the President may decide to reject the application.”

And

“You have failed to provide a response to a request for further information. 1. Please advise if the joint owner and registered landlord wishes to be added as joint Applicant or provide written authority from him for the application to proceed in the sole name of the Applicant. Please explain why the Applicant is not registered. 2. As previously requested, please provide a mandate and a copy of the signed and dated Notice to leave, if available. 3. Please also provide evidence in support of the eviction ground. This is required in terms of the Procedure Rules. Please reply to this office with the necessary information by 23 May 2023. If we do not hear from you within this time, the President may decide to reject the application.”

No response was received to any of the requests for information.

Reasons for Decision

3. 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."

4. Rule 109 of the Tribunal Procedure Rules provides:

Application for an eviction order

109. Where a landlord makes an application under section 51(1) (for an eviction order) of the 2016 Act, the application must—

(a)state—

(i)the name, address and registration number (if any) of the landlord;

(ii)the name, address and profession of any representative of the landlord;

- (iii) the name and address of the tenant (if known); and
- (iv) the ground or grounds for eviction;
- (b) be accompanied by—
 - (i) evidence showing that the eviction ground or grounds has been met;
 - (ii) a copy of the notice to leave given to the tenant as required under section 52(3) of the 2016 Act; and
 - (iii) a copy of the notice given to the local authority as required under section 56(1) of the 2016 Act; and
 - (iv) a copy of Form BB (notice to the occupier) under schedule 6 of the Conveyancing and Feudal Reform (Scotland) Act 1970 (if applicable), and
- (c) be signed and dated by the landlord or a representative of the landlord.

The Applicant has failed to provide necessary information. The Tribunal could not grant the order sought without this information.

5. The Tribunal accordingly consider that there is 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