



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/23/1160

Re: 4C Maygate, Dunfermline, Fife, KY12 7NH ("the Property")

Parties

CRP Gallo Properties Ltd (Applicant)

Mr Harry McGuinness (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 rejected 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 66 on 12 April 2023. The grounds for possession/eviction were stated to be termination of a Short Assured Tenancy (**SAT**) under section 33 of the **Housing (Scotland) Act 1988 (Act)**.
2. The application was considered by the Tribunal and further information was requested by letters of 2 May and 13 June 2023 in the following terms.

2 May 2023

“Before a decision can be made, we need you to provide us with the following: • In the notice to quit which has been provided, it is indicated that the tenant requires to quit the premises by “24.3.23”. Does the notice to quit specify a removal date which is an “ish” or end date of the tenancy? If not on what basis is the purported notice effective and valid in law. • Please confirm that the section 33 notice was also delivered in the same manner as the Notice to Quit and provide a copy of the notice. • Please note the terms of the attached letter relating to the potential impact on your application of the Cost of Living (Tenant Protection) (Scotland) Act 2022. Upon receipt of the above information, a final decision can then be taken on whether the application is valid and whether it should be accepted and referred to the tribunal for full determination. Please reply to this office with the necessary information by 16 May 2023. If we do not hear from you within this time, the President may decide to reject the application.”

13 June 2023

“Before a decision can be made, we need you to provide us with the following: 1. In the notice to quit which has been provided, it is indicated that the tenant requires to quit the premises by “24.3.23”. Does the notice to quit specify a removal date which is an “ish” or end date of the tenancy? If not on what basis is the purported notice effective and valid in law. 2. Please confirm that the section 33 notice was also delivered in the same manner as the Notice to Quit and provide a copy of the notice. • Please note the terms of the attached letter relating to the potential impact on your application of the Cost of Living (Tenant Protection) (Scotland) Act 2022. Upon receipt of the above information, a final decision can then be taken on whether the application is valid and whether it should be accepted and referred to the tribunal for full determination. Please reply to this office with the necessary information by 27 June 2023. If we do not hear from you within this time, the President may decide to reject the application.”

3. 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 66 and section 33 of the Act. Rule 66 provides for certain information to be produced in support of the application.

The Applicant has been unable to provide the information requested by the Tribunal. In particular, the Applicant has failed to produce the section 33 Notice.

6. In light of the above reasons the Tribunal cannot grant the order sought. The Tribunal consider that the failure to provide the requested 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

20 July 2023

Legal Member/Chair

Date