



**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 Ms Rukhsana Hamid in terms of rule 109 of the Rules.

**Case reference FTS/HPC/EV/23/0593**

At Glasgow on the 19 June 2023, 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 Ms Rukhsana Hamid for eviction in terms of rule 109 of the Rules. The Application was made on her behalf by GPS Legal and Estate on 24 February 2023.
2. There was no tenancy agreement lodged with the Application. There was an accompanying document stating that there was no tenancy agreement because the Respondent is a relative of the applicant and he was given the keys to carry out work to the property on the Applicant’s behalf. The Respondent went against the Applicant’s wishes by moving into the property in January 2022. No rent has been paid.
3. The in-house convenor reviewed the application and the Tribunal wrote to the Applicant’s representative on 21 March 2023 seeking further information as follows:

Before a decision can be made, we need you to provide us with the following:

- The summary of case provided with the application appears to indicate that the Respondent is occupying the Property without any lease in place and without the Applicant’s consent. Please explain on what basis you consider the Tribunal has jurisdiction to deal with this application in the circumstances.
- 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 4 April 2023. If we do not hear from you within this time, the President may decide to reject the application.

4. No reply was received. A further letter was sent on 12 May 2023 as follows:

A Legal Member of the Tribunal with delegated powers of the President has considered your application and notes that you have failed to respond to a request for further information. As previously advised, the Tribunal only has jurisdiction to deal with tenancies. If the Respondent is an unlawful occupier, and not a tenant, an application to the Sheriff Court may be required. Please clarify the status of the Respondent and, if there is no tenancy, confirm if you wish to withdraw the application. Please reply to this office with the necessary information by 26 May 2023. If we do not hear from you within this time, the President may decide to reject the application.

5. No reply has been received.
6. 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”***.
7. “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”.
8. I consider that this application is frivolous or vexatious and has no reasonable prospect of success. There is no tenancy between the parties and the tribunal does not have jurisdiction to deal with this application.
9. 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 it is incomplete and the Applicant’s representative has failed to cooperate with the tribunal in the execution of its duties.

**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.

# L Ward

Lesley Anne Ward

Legal Member