



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 Gerald Conaghan in terms of rule 109 of the Rules.

Case reference FTS/HPC/EV/22/2852

At Glasgow on the 9 November 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 Gerald Conaghan for eviction in terms of rule 109 of the Rules. The application was dated 12 August 2022 and received by the tribunal chamber on 16 August 2022.
2. The inhouse convenor reviewed the application and the tribunal wrote to the applicant on 12 September 2022 seeking further information as follows:

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

- A copy of the tenancy agreement.
- Proof of service of the Notice to Leave.
- Proof of service of the Section 11 notice.
- Details of your connection with the registered landlord, CSKM Property Limited.
- Documentary evidence in support of the Ground 1.

Please reply to this office with the necessary information by 26 September 2022. If we do not hear from you within this time, the President may decide to reject the application.

3. The applicant contacted the tribunal chamber on 12 September 2022 and asked for an extension until 3 October 2022 to respond to this request. He stated that his tenant had secured a property from Renfrewshire Council and she may move out of the property voluntarily.

4. No further information has been received from the applicant.
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”***.
6. ***“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”***.
7. I consider that this application is frivolous or vexatious and has no reasonable prospect of success as the essential information required for it to proceed has not been provided, despite a detailed request for information being sent by the tribunal. 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 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.



Lesley Anne Ward

Legal Member