



**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/20/2079**

**Re: 0/2 50 Napiershall Street, Glasgow, G20 6EX ("the Property")**

### **Parties**

**Ms Qunyang Guan (Applicant)**  
**Ms Natalie Nicolaides (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 is frivolous within the meaning of Rule 8(1)(a) of the Procedural Rules and 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 70 on 26 September 2020. The application sought an order for payment in respect of rent arrears and damages.
2. On 15 October 2020 the Tribunal emailed the Applicant in the following terms:

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

- Please provide a rent statement showing rent period, rent due, rent paid and running total of arrears*

You have provided unredacted bank statements. Please advise if they can be copied unredacted to the respondent. If you do not wish them to be copied in the form they have been submitted you would have to provide a redacted version.

Please provide if available evidence of any damage allegedly caused by the respondent such as photographs and a moving in and moving out report.

*Please reply to this office with the necessary information by 29 October 2020. If we do not hear from you within this time, the President may decide to reject the application."*

3. No response was received. The Tribunal wrote again by letter of 13 November 2020 in the following terms:

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

*Please provide the information requested in the Tribunal's letter to you of 15 October 2020.*

*Please reply to this office with the necessary information by 27 November 2020. If we do not hear from you within this time, the President may decide to reject the application."*

4. No response was received.

### **Reasons for Decision**

5. 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."***

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. Rules 5 and 70 of the Tribunal Rules of Procedure require certain documents and information to be provided. The Applicant has failed to provide information required by the Tribunal. The Tribunal could not grant the order sought without the information requested.
8. In light of the lack of response from the Applicant the Tribunal considered the test identified by Lord Justice Bingham in the case of ***R v North West Suffolk (Mildenhall) Magistrates Court*** (cited above). The Tribunal considered that the application was frivolous, misconceived and had no prospect of success. Furthermore, the Tribunal consider that the failure to provide necessary information constituted 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**

**9 December 2020**

---

**Legal Member/Chair**

---

**Date**