



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 David Farley in terms of rule 70 of the Rules.

Case reference FTS/HPC/CV/23/0670

At Glasgow on the 14 August 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 Mr David Fairley for rent arrears in terms of rule 70 of the Rules. The Application was made on 3 March 2023. There was a second application for eviction in terms of rule 65.
2. The in-house convenor reviewed the application and the tribunal wrote to the applicant on 31 March 2023 seeking further information as follows:

In order for the Tribunal to be able to process your application further please provide the undernoted information /documentation:

(1). You do need to provide the tenancy agreement or at least if you are not able to do this as much relevant information (start date, initial term, notice period, whether agreement on continuation after initial period, parties, property, rent agreed, payment date for rent, deposit etc) as you are able. There is a tenancy 2 agreement provided with the application but this seems to not be with an individual but with a company named Corozal Investments. This is not the tenant you are raising proceedings against and it is not clear how the tenancy you did submit can be a Short Assured Tenancy for which the Tribunal would have jurisdiction as it does not appear to be a tenancy in terms of s 12 of the Housing (Scotland) Act 1988. S 12 states that in order to be an assured tenancy, at least one of the tenants has to be an individual. Can you please clarify the relevance of the tenancy agreement lodged and whether “Corozal Investments” are an individual? Is this actually the

tenancy you are relying on? If it is, who is Charlene Angela McGrath and who did she rent the property from – yourself of Corozal Investment?

(2). Please provide a rent statement in the format: date – rent due – rent paid – running total

(3). You have lodged unredacted mortgage / bank statements. Should the case proceed these would be crossed over to the Respondent. Please either advise that you wish to withdraw the statements and provide redacted statements or confirm the unredacted statements can be used.

3. No response was received. The tribunal sent a reminder on 2 June 2023. The applicant has not responded. The applicant made a response in relation to the eviction application which stated that the tenant had in fact been paying the rent and there were no arrears. The applicant has not withdrawn the application.
4. 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 the applicant has failed to cooperate with the tribunal in the execution of its duties. It also appears that the application is without foundation.

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