



**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 Colin English in terms of rule 109 of the Rules.

**Case reference FTS/HPC/EV/23/1063**

At Glasgow on the 21 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 Colin English for eviction in terms of rule 109 of the Rules. The application was made on 4 April 2023.
2. The in-house convenor reviewed the application and the tribunal wrote to the applicant on 25 April 2023 seeking further information as follows:

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

(1) You do not appear to have given the correct period of notice for grounds 1 and 1A, which require a period of 84 days (plus 48 hours for receipt of the notice). The Notice to Leave would appear to be invalid, and you should consider withdrawing the application and serving a further Notice, allowing the correct period for whichever ground(s) you decide to proceed upon. You would be advised to take advice on this matter from a suitable advice agency or solicitor. Please confirm if you are withdrawing the action or provide your written submissions as to why the application should be accepted. Please also note the following:

(2) The tenancy agreement is incomplete as there are pages missing.

(3) The incorrect legislation has been ticked on the section 11 notice.

(4) You have not provided any evidence of service of the Notice to Leave upon the Respondents. Please reply to this office with the necessary information by 9 May 2023. If we do not hear from you within this time, the President may decide to reject the application.

3. The applicant responded on 29 April 2023 as follows:  
Further to your letter dated 25 April I would respond to your application queries as follows :
  - (1) The notice period of 84 days has not been pointed out to me by the First Tier Tribunal in my earlier application to evict on the basis of grounds 1 and 1a. Can you explain why this has now suddenly become a reason for rejecting my application.
  - (2) The tenancy agreement submitted is not incomplete, it is a copy of the agreement signed by Landlord and Tenant. The agreement was taken from the Private residential tenancy (model agreement from Scottish Government website) whereby not all pages in the model agreement were applicable, therefore I used the terms of the model agreement as necessary. There are no pages missing and I confirm that this is a copy of the agreement signed by both parties and constitutes a legally binding agreement for both parties.
  - (3) I have received an email from South Lanarkshire Council confirming that the application to evict is being dealt with by the Housing Resources team at the Council.
  - (4) The evidence of service of the Notice to Leave was submitted in my application. I do not understand why you have been unable to confirm this however I have enclosed further copies for your records. I trust you will find the above clarifications will now allow you to proceed with my application.
  
4. The inhouse convenor reviewed the application further in the light of the applicant's letter and supporting documentation. A further detailed letter was sent to the applicant on 12 June 2023 as follows:  
  
Before a decision can be made, we need you to provide us with the following:
  - (1) The Tribunal cannot provide you with advice as we are an impartial body. We have told you that the period of notice is not correct and therefore your Notice to Leave is invalid. Do you wish to withdraw your application in order to serve a valid notice with the correct period of notice?
  - (2) Notwithstanding the information provided to you by the local authority, the incorrect legislation has been ticked on the section 11 notice. A corrected section 11 notice is required.
  - (3) You have stated in the application form that the Notice to Leave was served on 1 March 2023 and we have the recorded delivery receipt confirming the date that it was served. However, the copy Notice produced by you is not complete, as it only has 3 pages. Please reply to this office with the necessary information by 26 June 2023. If we do not hear from you within this time the President may decide to reject the application.
  
5. No reply was received. The tribunal sent a reminder on 20 July 2023. No reply was received.
  
6. In terms of Rule 8(c) the Chamber President or another member of the First-tier Tribunal with delegated powers of the Chamber President must reject an application if they have good reason to believe it would not be appropriate to accept it. 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