



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 John Sullivan Solicitor of the PRG Partnership on behalf of Fai Markey and Gregor Jones in terms of Rule 109 of the Rules.

Case reference FTS/HPC/EV/22/3029

At Glasgow on the 11 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 for eviction proceedings by Mr John Sullivan Solicitor of the PRG Partnership on behalf of Fai Markey and Gregor Jones in terms of rule 109 of the tribunal rules. The application was dated 22 August 2022 and entered into the case management system of the tribunal chamber on 25 August 2022.
2. The application was accompanied by the following:
 - (a) Tenancy agreement.
 - (b) Notice to leave
 - (c) S11 notice.
3. The tribunal wrote to the applicant’s solicitor on 30 September 2022 as follows:

‘Your application has been assessed by a legal member who has requested the following information or documentation:

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

 - Please provide proof of landlord registration and property ownership. The landlord appears to have been Moira Jones who is not an Applicant. The tribunal understands this is an executory but the link to title and the tenancy must be established.

- Please provide proof of service of the Notice to Leave on the tenants and the section 11 Notice on the local authority Please reply to this office with the necessary information by 14 October 2022. If we do not hear from you within this time, the President may decide to reject the application.

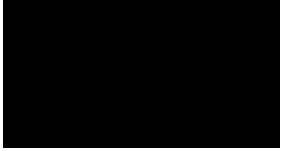
4. The applicant's solicitor did not respond to the letter.
5. I have reviewed the application today. As things stand, there is no evidence of service of the notice to leave, no evidence of ownership or landlord registration. Further, an application cannot proceed without a s11 notice on the local authority in terms of s56 of the Private Housing (Tenancies) (Scotland) Act 2016. A notice has been produced but there is no evidence that the notice was served on the local authority.
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 as the essential information required for it to proceed has not been provided, despite a detailed request being sent by the tribunal some 6 weeks ago. 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