



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 Ewan Minty in terms of rule 70 of the Rules.

Case reference FTS/HPC/CV/23/2219

At Glasgow on the 5 September 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 Ewan Minty in terms of rule 70 for civil proceedings arising out of an assured tenancy for 1 Blackhouse Terrance Peterhead, AB42 1LR, ‘the property’. The application was made on 4 July 2023.
2. The inhouse convenor reviewed this application and a separate application in identical terms made on 3 July 2023 and the tribunal wrote to the applicant on 29 July 2023 in connection with both applications seeking further information as follows:

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

- (1) We have registered 2 application from you, but they appear to be identical. Please confirm that you wish to proceed with only 1 application for payment in relation to your tenant Guntar Botovskis.
- (2) Please provide a copy of the tenancy agreement.
- (3) Please provide an amended page 3 of your application, specifying the sum you want the Tribunal to grant an order for. Please reply to this office with the necessary information by 12 August 2023. If we do not hear from you within this time, the President may decide to reject the application.

3. The applicant responded on 1 August by sending a copy of the tenancy agreement and amending the application to include the sum he was seeking. He did not address the issue of the duplicate applications. The tribunal sent a further request for information on 21 August 2023 as follows:

We refer to our email of 29 July 2023. 1. You have not answered point 1 of our email of 29 July 2023. Please provide a response. 2. Not all pages of the tenancy agreement are legible. Please provide a clearer copy so that each page is legible. Please reply to this office with the necessary information by 4 September 2023. If we do not hear from you within this time, the President may decide to reject the application.

4. The applicant responded by providing a copy of the tenancy agreement. He did not address the issue of the duplicate applications. The second application under reference CV/23/2201 in identical terms has been accepted and will proceed to a case management discussion.
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 an identical application has been accepted and will proceed to a case management discussion. I also have good reason not to accept this application in terms of rule 8(1) (c) as it is unnecessary and the applicant has failed to cooperate with the tribunal chamber by withdrawing it.

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