



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 DKB Properties in terms of rule 111 of the Rules.

Case reference FTS/HPC/CV/22/1738

At Glasgow on the 29 August 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 by DKB Properties in terms of rule 111 to recover rent arrears.
2. The inhouse convenor reviewed the application and the tribunal wrote to the applicant on 28 June 2022 seeking further information as follows:

I refer to your recent application which has been referred to the Chamber President for consideration. Before a decision can be made, we need you to provide us with the following:

- (1). The owner and registered landlord appears to be DKB Homes Ltd. Please advise if you wish to amend the application to this name.
- (2). The application was submitted by a letting agent but they are not named on the application. If you wish us to correspond with the agent, please confirm the position and provide contact details.
- (3). Please advise if you wish to add the joint tenant as joint Respondent and confirm contact details. Please reply to this office with the necessary information by 12 July 2022. If we do not hear from you within this time, the President may decide to reject the application.

3. The applicant did not respond.
4. 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”***.
5. “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”.
6. 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. 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.
7. It is open for the applicant or their delegated representative to resubmit the application with the correct supporting documentation.

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

Lesley Anne Ward

Legal Member