



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 Brian Gilbride in terms of rule 109 of the Rules.

Case reference FTS/HPC/EV/22/1179

At Glasgow on the 16 June 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 Mr Brian Gilbride for eviction proceedings. The application was incomplete as the only supporting document lodged was a copy of the notice to leave. The applicant subsequently submitted the s11 notification on the local authority after the tribunal sent an ‘application incomplete letter’ on 27 April 2022.
2. The inhouse convenor reviewed the application and the tribunal wrote to the applicant on 19 May 2022 seeking further information as follows:

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

- *Please amend section 5 of the application to confirm the ground of recovery that you are relying on.*
- *Please provide landlord registration details.*
- *Please provide a copy of the tenancy agreement.*
- *Please provide a copy of evidence of service of the notice to leave.*
- *Please provide evidence of the ground of recovery, for example a sworn affidavit evidencing the ground.*
- *The property has not been located on the registers of Scotland website or landlord registration - please check that the property address in the application has correctly completed.*
 - *The property located on the registers of Scotland website has a different postcode and a different third party owner than the applicant, please clarify this matter.*

Please reply to this office with the necessary information by 2 June 2022. If we do not hear from you within this time, the President may decide to reject the application.

3. The applicant has not responded.
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 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 Mr Gilbride 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

Legal Member