



**DECISION AND STATEMENT OF REASONS OF PETRA HENNIG MCFATRIDGE LEGAL
MEMBER OF THE FIRST-TIER TRIBUNAL WITH DELEGATED POWERS OF THE CHAMBER
PRESIDENT**

Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules
of Procedure 2017 ("the Procedural Rules")

in connection with

42 Carleton Drive, Giffnock, Glasgow, G46 6AQ

Case reference FTS/HPC/CV/20/1813

Parties

Ms Ruth Scott (Applicant)

Ms Jacqueline Wilson (Respondent)

1. On 31 August 2020 the First –tier Tribunal Housing and Property Chamber (FTT) received an undated and unsigned application in terms of Rule 70 of the Procedural Rules from the applicant. The applicant stated the application related to rent arrears arising from an assured tenancy under the Housing (Scotland) Act 1988.
2. The application was accompanied by various correspondence. However, the Tribunal was unable to identify a Landlord registration for the Applicant and the title deeds for the property were in a different name.
3. By letter of 8 September 2020 the FTT in terms of Rule 5 (3) of the Procedure Rules

requested further information to be provide as the application in the form presented did not meet the lodging requirements of an application under Rule 70. The FTT wrote:

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

- 1. Please provide signed and dated copy of final page of the application.*
- 2. Please provide landlord registration number.*
- 3. The title deeds show the property is owned by Rachel Brew, please provide evidence that you have title and interest to raise these proceedings and to have granted the lease to the respondent.*
- 4. Please confirm the date when the respondent vacated the property.*
- 5. Please provide evidence that the respondent is aware of the outstanding arrears that are sought and has refused or delayed to make payment. “*

Please reply to this office with the necessary information by 22 September 2020. If we do not hear from you within this time, the President may decide to reject the application.

4. By letter dated 14 October 2020 the FTT again wrote again to the applicant reiterating the request for the information as stated in the letter of 8 September 2020 and giving until 28 October 2020 for a reply. On 28 October 2020 the FTT received the following correspondence by email:

“Good afternoon,

I refer to your previous emails and must first apologise for the delayed response, quite simply due the Covid situation resulting in health issues in the family, and at this moment, we are currently self isolating until next Wednesday 4 October 2020.

Can I confirm that I will action your request immediately in the hope that I can source via my own files, or alternatively, I approach the those necessary to source and come back to you by Wednesday 4 October 2020 with all material, and if not, with an update on their position.

I hope this is in order, and look forward to hearing from you.

Kind regards,

Ruth Scott

5. The FTT again wrote to the applicant on 18 November 2020 in the following terms:

“ Before a decision can be made, we need you to provide us with the following: We refer to your response dated 28 October 2020 advising that you would attend to the further information requests. The legal member notes that you had experienced difficulties in actioning the requests due to the covid-19 pandemic. The legal member has asked if you are now in a position to respond to the requests or, do you require further time? If you require further time to gather the requested information can you please advise how long you seek? Please reply to this office with the necessary information by 2 December 2020. If we do not hear from you within this time, the President may decide to reject the application.

6. No reply was received. The FTT wrote again to the applicant on 29 December 2020 in the following terms :

*“Before a decision can be made, we need you to provide us with the following:
Please provide the information requested in the Tribunal’s letter to you of 18
November 2020.*

*Please reply to this office with the necessary information by 12 January 2021. If
we do not hear from you within this time, the President may decide to reject the
application.*

7. Again no reply was received.
8. The documents are referred to for their terms and held to be incorporated herein.

DECISION

I considered the application in terms of Rule 8 of the Procedural Rules. That Rule provides:-

“Rejection of application

*8.—(1) The Chamber President or another member of the First-tier Tribunal under
the delegated powers of the Chamber President, must reject an application if –*

(a) they consider that the application is frivolous or vexatious;

(b) the dispute to which the application relates has been resolved;

*(c) they have good reason to believe that it would not be appropriate to accept the
application;*

*(d) they consider that the application is being made for a purpose other than a
purpose specified in the application; or*

*(e) the applicant has previously made an identical or substantially similar
application and in the opinion of the Chamber President or another member of the
First-tier Tribunal, under the delegated powers of the Chamber President, there has
been no significant change in any material considerations since the identical or
substantially similar application was determined.*

*(2) Where the Chamber President, or another member of the First-tier Tribunal,
under the delegated powers of the Chamber President, makes a decision under*

paragraph (1) to reject an application the First-tier Tribunal must notify the applicant and the notification must state the reason for the decision."

After consideration of the application, the attachments and correspondence from the Applicant, the Tribunal considers that the application should be rejected in terms of Rule 8 (c) of the Rules of Procedure on the basis as the Tribunal has good reason to believe that it would not be appropriate to accept the application.

REASONS FOR DECISION

Relevant Rules of Procedure:

Application for civil proceedings in relation to an assured tenancy under the 1988 Act

70. Where a person makes any other application to the First-tier Tribunal by virtue of section 16 (First-tier Tribunal's jurisdiction in relation regulated and assured tenancies etc.) of the 2014 Act, the application must—

(a) state—

- (i) the name and address of the person;
- (ii) the name and address of any other party; and
- (iii) the reason for making the application;

(b) be accompanied by—

- (i) evidence to support the application; and
- (ii) a copy of any relevant document; and

(c) be signed and dated by the person.

1. The Applicant had been given ample notice by the Tribunal of the issues identified regarding missing information and the lack of documents to show their title and interest to sue and the necessity for the action.
2. The application at present does not meet the lodging requirement for an application under Rule 70 (c), which is the Rule stated in the application, as it was not signed and dated. The application also lacks evidence that the respondent had been asked for payment and delayed payment, which is required as evidence in terms of Rule 70 (b)

(i).

3. The FTT had requested the cooperation of the applicant in providing the further information on several occasions as set out above and apart from one email, which stated that this would be dealt with, no further replies were received.
4. The application is not signed and dated. The further information to clarify the applicant's status and the issue of whether the respondent is aware of the demand and has refused or delayed payment has not been provided. The applicant had been repeatedly advised that if these matters were not dealt with the application may be rejected. The applicant had been given every opportunity to either send the required items or ask for further time. No reply has been received since 28 October 2020.
5. As the lodging requirements for an application to the FTT under Rule 70 are still not all met, it would not be appropriate for the FTT to accept the application. The application is rejected.

What you should do now

If you accept the Legal Member's decision, there is no need to reply.

If you disagree with this decision:-

An applicant aggrieved by the 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 first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them. Information about the appeal procedure can be forwarded to you on request.

Petra Hennig McFatridge
Legal Member
22 January 2021