



Decision under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017, as amended (“the Rules”)

Chamber Ref: FTS/HPC/EV/19/0043

Re: Property at 3 Borthwick Street, Glasgow, G33 3UU (“the Property”)

Parties:

Mr Paul Hartley, Unit 23, Ladywell Business Centre, 94 Duke Street, Glasgow, G4 0UW (“the Applicant”)

Miss Cheryl Cole, 3 Borthwick Street, Glasgow, G33 3UU (“the Respondent”)

1. On 8 January 2019, an application was received from the Applicant, together with supporting documentation. The application was made under Rule 66 of the Rules being an application for possession of property let under a Short Assured Tenancy on termination of that tenancy in terms of Section 33 of the Housing (Scotland) Act 1988.
2. On 9 January 2019, the Chamber President issued a request for further information to be submitted in order that the application could proceed. This information was submitted on behalf of the Applicant by his representative on 12 January 2019.
3. On 28 January 2019, a Notice of Acceptance of Application was issued by a Legal member of the First-tier Tribunal (“Tribunal”) with delegated powers of the Chamber President. A Case Management Discussion (“CMD”) was scheduled for 14 March 2019 at 10am.
4. Sheriff Officers attempted unsuccessfully to serve the case papers and notification of the CMD on the Respondent at the address specified in the application, namely the Property address, as the property was found to be empty. The CMD was cancelled and the Applicant’s representative was notified of the reason by email/letter from the Tribunal dated 25 February 2019. The Applicant’s representative was invited to provide a forwarding address for the Respondent or to consider requesting service by advertisement. No response was received.

5. On 1 April 2019, the Tribunal wrote again to the Applicant's Representative, referring to the previous correspondence and requesting a response by 15 April 2019 or confirmation if the case was no longer to proceed, otherwise the application may be rejected. No response has been received.

DECISION

6. I have considered the application terms of Rule 8 of the 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."

7. After consideration of the application, I consider that the application should be rejected on the basis of Rule 8(1)(c) of the Rules.

REASONS FOR DECISION

8. The Applicant has not provided a forwarding address for the Respondent, nor requested service by advertisement. The Applicant's representative has not responded to correspondence from the Tribunal dated 25 February 2019 and 1 April 2019 within the time limits stated, despite being advised that this may result in the application being rejected. It is therefore assumed that the Applicant does not wish to proceed with the application. For these reasons, it appears to me seems to me that there is good reason to believe that it would not now be appropriate to accept the application and it should be rejected in terms of Rule 8(1)(c) of the Rules.

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 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 of the decision was sent to them. Information about the appeal procedure can be forwarded to you on request.

Ms Nicola Weir

Legal Member/Chair

29/4/19

Date