



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 Andrew Brebner in terms of rule 109 of the Rules.

Case reference FTS/HPC/EV/23/1376

At Glasgow on the 11 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) (c) of the Rules

1. This is an Application by Mr Andrew Brebner for eviction in terms of rule 109 of the Rules. The Application was made on 1 May 2023.
2. The Application was incomplete. The in-house convener reviewed the Application and a letter was sent to the Applicant on 25 May 2023 as follows:

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

- (1) Please provide copy of the tenancy agreement;
- (2) Please provide a rent statement in the format dates and amounts of rent due, dates and amounts of rent paid and a running total of arrears;
- (3) Please provide evidence of service of the Notice to Leave on the Respondent. A photograph of an individual holding the notice outside the Property does not constitute evidence of service on the Respondent;
- (4) You have provided unredacted bank statements. Once accepted these will be crossed over to the Respondent unless withdrawn or redacted by you. Please reply to this office with the necessary information by 8 June 2023. If we do not hear from you within this time, the President may decide to reject the application.

3. No reply was received. A further letter was sent on 6 July 2023 as follows:

It is noted that you have failed to respond to our request dated 25 May 2023 seeking further information regarding your application. A further copy is attached.

Please note the terms of the attached letter relating to the potential impact on your application of the Cost of Living (Tenant Protection) (Scotland) Act 2022 Please confirm the contact email address you wish to use in connection with this application.

Please respond to this letter within the next two weeks failing which the tribunal is likely to have no option but to reject the application on the basis of your failure to provide the necessary information requested by the tribunal. You should be aware that the Tribunal has the power to reject applications on grounds set out in rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 Please reply to this office with the necessary information by 20 July 2023.

4. No reply was received. A third letter was sent by the Tribunal on 14 August 2023 as follows:

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

- (1) You were asked to provide the tenancy agreement. In the email with the application you state that there is no written agreement. If this is the case you must provide information about the tenancy – the start date, the monthly rental.
- (2) You were asked for evidence of service of the Notice to leave. If this was hand delivered you need to confirm when it was delivered, who delivered it and whether it was posted through the letterbox or handed personally to the tenant.
- (3) If you do not confirm that the bank statements are to be withdrawn, it will be assumed that these can be crossed over.
- (4) You must provide a rent statement which shows the rent due, the payments made (from whatever source) and the running monthly total outstanding for the relevant period. Please reply to this office with the necessary information by 28 August 2023. If we do not hear from you within this time, the President may decide to reject the application.

5. The Applicant has not responded.

6. 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. The Tribunal has written to the applicant on three occasions seeking further information from May 2023 to date. The Applicant has failed to respond and he has failed to cooperate with the Tribunal in the execution of its duties.

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