



**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 Miss Abby Birchall in terms of Rule 111 of the Rules.

**Case reference FTS/HPC/EV/19/0607.**

At Glasgow on the 24 July 2019, 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 i

1. This is an application by Miss Abby Birchall. The applicant appears to be the former tenant of the property at 2GR Buchanan Street Dundee. On the 22 February 2019 the applicant made an application to the tribunal in terms of rule 111. The application appeared to be in relation to a claim that the applicant wishes to make against a letting agent, Rockford Properties.
2. The application was accompanied by the following copy documents:-
  1. Letter from Rockford Properties dated 31 October 2018.
  2. Letters from Dundee Law Centre dated 16 October 2018 and 12 November 2018.
  3. Photographs
  4. Inventory for the property.
3. The tribunal wrote to the applicant on 12 March 2019 requesting further information on 4 March 2019, including, a copy of the tenancy agreement. The tribunal wrote a further letter to the application on 15 April 2019 as follows:

The legal member notes that you have named the Respondent in the application as Rockford Properties Limited, who are the letting agents. Your landlord however was Richard Bailey.

**LW**

Can you please confirm that the respondent in this case is to be the letting agent and not the landlord and that you are seeking an order against the letting agent? We note that when Dundee North Law Centre were involved in your behalf they appear to have considered that the other party in your case was the landlord Richard Bailey. You may wish to consider taking legal advice on this question and you may find that the Dundee North Law Centre are able to assist you given their previous involvement.

If you are seeking an order against the letting agent the legal member would ask you to clarify if you wish to amend your application and deal with it under one of the letting agent rules (See the First-tier Tribunal Rule 2017, Rules 93-97).

4. The applicant wrote to the tribunal on 15 April 2019 stating that the respondent is to be the letting agent and not the landlord. She did not confirm whether she wished to amend the application and the tribunal wrote to her again in 8 May 2019 seeking clarification. The applicant wrote on 26 May 2019 stating that she wishes to amend her application but no amended application was received.
5. The tribunal wrote a further letter to the applicant on 12 June 2019 noting that she now wishes to proceed under rule 95 and asking her to complete and submit form J by 26 June 2019 failing which the President may decide to reject the application. No amended application has been received. The applicant wrote to the tribunal by email on 2 July 2019 asking for the return of her documents. The tribunal wrote back to the applicant by email on 8 July 2019 sending the applicant copies of all of the documents she has already lodged. The tribunal has heard nothing further from the applicant.
6. 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”***.
7. ***“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”***.
8. 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 reminders 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 the applicant has stated that she wishes to proceed in terms of rule 95 rather than rule 111 but no amended application has been received despite reminders.

**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:

**LW**

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.

**LW**

Lesley Anne Ward

Legal Member