

Housing and Property Chamber
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF ALISON KELLY, 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 Rules")

in connection with

Flat 0/1, 1248 Cathcart Road, Glasgow, G42 9EY

Case Reference: FTS/HPC/EV/19/2352

Mr Gerard McGrath ("the Applicant")

Mr Matthew Booth ("the Respondent")

The Application was lodged under Rule 65 of the Chamber Procedural Rules on 25th July 2019, being an application by a private landlord for possession on termination of an Assured Tenancy.

The following documents were enclosed with the Application:

- (i) Tenancy Agreement
- (ii) Form AT6
- (iii) Notice to Quit
- (iv) Notice Given to Local Authority
- (v) Statement of Rent Arrears

The Tenancy Agreement shows that the lease began on 5th January 2016 for 6 months. The Agreement does not state for what period the lease will be renewed, and it is therefore assumed that it tacitly renews on a six monthly basis.

The Applicant seeks in his application to evict the Respondent on Ground 8 of Schedule 5 to the Housing (Scotland) Act 1988. However, the AT6 only makes reference to grounds 11 and 12.

The Tenancy Agreement does not make reference to eviction in terms of Grounds 11 and 12. In terms of the decision in *Royal Bank of Scotland -v- Boyle* 1999 Hous LR 63 if the grounds are not fully narrated in the Tenancy Agreement a Notice To Quit must be served.

A Notice to Quit was served but it did not give a date of termination of the tenancy. The tenancy has therefore not been brought to an end at an ish date.

DECISION

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

"Rejection of application

The Application is brought in terms of Ground 8. Ground 8 is not mentioned in the AT6.

There is no mention in the Tenancy Agreement of grounds 11 and 12 and therefore the Notice To Quit becomes relevant. It does not bring the tenancy to an end at an ish date.

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.

A.K

Miss Alison Kelly
Legal Member
26th August 2019

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. "

2 After consideration of the application I consider that it should be rejected on the basis that it is not appropriate to accept it in terms of Rule 8(1) (a) of the Procedural Rules.

REASONS FOR DECISION