

**Housing and Property Chamber**  
**First-tier Tribunal for Scotland**

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**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

115 Wellington Street, Greenock, PA15 4DX

**Case Reference: FTS/HPC/EV/18/1036**

**FIXED PRICE LETTINGS ("the Applicant")**

**MR KEVIN BEST ("the Respondent")**

The Application was lodged under Rules 65 and 66 of the Chamber Procedural Rules on 30<sup>th</sup> April 2018. The following documents were enclosed with the Application:

- (i) Copy Tenancy Agreement
- (ii) Copy AT5
- (iii) Copy AT6
- (iv) Copy section 33 Notice
- (v) Copy Notice to Quit
- (vi) Copies of several letters sent to the Respondent by the Applicant

A request for further information was issued to the Applicant on 8<sup>th</sup> May 2018 asking the Applicant:

1. To submit a separate application form for each of his Rule 65 and Rule 66 cases
2. To provide a copy of the section 11 Notice sent to the local authority
3. To complete section 7 of the original application form

The Applicant responded by email of 14<sup>th</sup> May 2018. He attached additional Form E and section 11 Notice.

Another request for further information was sent to the Applicant on 23<sup>rd</sup> May 2018. He was asked:

1. To confirm how the Notice To Quit was served on the Respondent, whether this was by way of Recorded Delivery or Sheriff Officer.
2. To provide confirmation and supporting documentary evidence that he was the legal owner of the property.

The Applicant responded by letter of 31<sup>st</sup> May 2018. He confirmed that he hand delivered the

notice as the Respondent would not accept mail from the post office. Photographs were provided of the hand service taking place.

On 11<sup>th</sup> June 2018 the Applicant was written to again. He was asked to provide evidence of his title to the property, as previously requested. He was also asked to confirm if the AT6 was delivered personally to the tenant. He was also asked to confirm if he was proceeding under Grounds 11 and 12 only as these were the only grounds specified in the AT6.

The Applicant responded by email of 15<sup>th</sup> June 2018. He confirmed he had written to the owner for a copy of the title deeds. He confirmed that the AT6 was hand delivered through the letterbox as the tenant would not open the door. He confirmed that the grounds he was intending to rely on were grounds 11 and 12.

On 19<sup>th</sup> June 2018 the Applicant emailed a copy of the title deeds to the property. The title deeds show that the owner is Hugh Docherty.

## DECISION

I considered the application in terms of Rule 8 of the Chamber 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. "*

- 2 After consideration of the application, the attachments and correspondence from the Applicant's solicitor, I consider that the application should be rejected on the basis that it is not appropriate to accept it in terms of Rule 8(1)(c) of the Procedural Rules.

## **REASONS FOR DECISION**

1. Title to the property is in the name of Hugh Docherty, but the application is in the name of Fixed Price Property Lettings, who are also stated to be the landlords in the Tenancy Agreement, and in whose name the statutory notices have been served. There is no explanation provided for this significant discrepancy. The property is not owned by the Applicant and no evidence has been provided to demonstrate the applicant's interest in the property or entitlement to act as landlord and seek eviction.
2. Rule 8 (c) of the Rules allows an application to be rejected by the Chamber president if "they have good reason to believe that it would not be appropriate to accept the application".
3. Accordingly I consider that it is not appropriate to accept the application.

## **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 Kelly

Miss Alison Kelly  
Legal Member  
25<sup>th</sup> June 2018

