

Housing and Property Chamber
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF MELANIE BARBOUR, 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 Procedural Rules")**

in connection with

Case reference FTS/HPC/PR/22/4052 and FTS/HPC/CV/22/4051

Parties

Mr Daniel Osula (Applicant)

Mr Paul Lawrence (Respondent)

135/5 Barn Park Crescent, Edinburgh, EH14 3HU (House)

1. On 9 November 2022, an application was received from the applicant. The application was made under Rule 68 and 87 of the Procedural Rules.
2. By letters from the Tribunal dated 1 December 2022 and 4 January 2023 the Tribunal requested further information. The applicant has failed to respond to the further information requests, and as at 10 March 2023 the following information was still outstanding:-

"You have submitted an application form which seeks to proceed under both Rules 68 and 87.

Firstly, where you wish to seek orders under more than one rule, you must submit a separate application form under each rule.

Secondly, your application form does not appear to contain a basis to proceed in terms of either rule stated therein.

Rule 68 concerns an application to provide a written tenancy agreement and weekly rent book, in relation to a tenancy under the Housing (Scotland) Act 1988.

Rule 87 concerns an application to recover unlawful premiums and loans, in terms of Rent (Scotland) Act 1984.

The rules are set out in the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Your application form refers to a payment notice from London Borough of Barking and Dagenham, and does not appear to have any connection with the basis of either Rules 68 or 87. Part (c) of your application form does not appear to seek an order in terms of either Rule 68 or 87.

Please clarify the legal basis upon which you consider that you can proceed under each of rules 68 and 87.”

3. The applicant has failed to respond to both further information requests and the foregoing issues remain outstanding.

DECISION

4. I considered the application in terms of Rule 8 of the 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."

5. After consideration of the application, the attachments and correspondence from the applicant, I consider that the application should be rejected on the basis that I have good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

REASONS FOR DECISION

6. The Tribunal had requested further information to support this application from the applicant. The applicant has not provided the information requested.
7. The applicant's failure to provide the requested information to support the application gives me good reason to believe that it would not be appropriate to accept the application in circumstances where the applicant is apparently unable to do so in order to progress this application under either rule 68 or 87.
8. Accordingly, for this reason the application must be rejected upon the basis that I have good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural 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 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.

Melanie Barbour

Melanie Barbour

Legal Member

15 March 2023