



DECISION AND STATEMENT OF REASONS OF THE FIRST-TIER TRIBUNAL FOR SCOTLAND

Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 “the Rules”)

In respect of

Flat 15, 10 Bon Accord Terrace, Aberdeen, AB11 6DP

Case Reference: FTS/HPC/PR/19/0582

At Glasgow on 8 April 2019, Andrew McLaughlin, Legal Member of the First-Tier Tribunal with delegated powers of the Chamber President, rejected the above application in terms of rule 8 of the Rules for the following reasons:

1. In this Application the Applicant seeks a Wrongful Termination order under Rule 110.
2. In correspondence with the Tribunal, the Applicant states that she lived at the Property with the Respondent, who is the owner of the Property, in a flat-share situation. Another tenant also occupied a separate room in the Property. All three occupiers had their own rooms and shared the communal facilities.
3. Paragraph 7 of Schedule 1 to the Private Housing (Tenancies) (Scotland) Act 2016 is in the following terms:

7A tenancy cannot be a private residential tenancy if paragraph 8 or 9 applies to it.

8This paragraph applies to a tenancy if—

(a)the let property would not be regarded as a separate dwelling were it not for the terms of the tenancy entitling the tenant to use property in common with another person (“shared accommodation”), and

(b)from the time the tenancy was granted, the person (or one of the persons) in common with whom the tenant has a right to use the shared accommodation is a person who—

(i)has the interest of the landlord under the tenancy, and

(ii)has a right to use the shared accommodation in the course of occupying that person’s home.

4. It is apparent therefore that any tenancy arrangement between the Applicant and Respondent is not a Private Residential Tenancy. As Applications under Rule 110 may solely relate to Private Residential Tenancies it follows that this Application is not competently brought.
5. Accordingly I consider that it is not appropriate to accept the application in terms of Tribunal Rule 8 (C) which allows for an application to be rejected by a Legal Member of the Tribunal on behalf of the Chamber President if *“they have good reason to believe that it would not be appropriate to accept the application.”* The Application is therefore rejected.

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 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 seek permission to appeal within 30 days of the date the decision was sent to them.

A McLaughlin

Legal Member

8 April 2019