



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 Mr Suvin Gulati, 23/6 South Elixia Place, Edinburgh, EH8 7PG (“the Applicant”) in terms of Rule 95 of the Rules.

Braemore Sales and Lettings, 92 Morningside Road, Edinburgh, EH10 4BY (“the Letting Agent”)

Case reference FTS/HPC/LA/21/1475

Address of Property: 23/6 South Elixia Place, Edinburgh, EH8 7PG (the “Property”).

At Glasgow on 16th September 2021, Martin Joseph McAllister, legal member of the First –Tier Tribunal for Scotland (“the Tribunal”) with delegated powers of the Chamber President, rejected the above application in terms of Rule 8(1) (a) of the Rules.

- 1. This is an application by the Applicant in respect of complaints he has in relation to enforcement of the letting agent code of practice in respect of the Letting Agent’s management of the Property. The Application is under Section 48 (1) of the Housing (Scotland) Act 2014 and is brought in terms of Rule 95 of the Rules.**
- 2. The application is dated 15th June 2021.**
- 3. The Tribunal wrote to the Applicant on 28th June 2021 setting out what was required. The Applicant was advised that, to meet the provisions of Section 48 (4) of the Housing (Scotland) Act 2014 (“the 2014 Act”), no application to enforce the Letting Agent’s Code of Practice can be made unless the applicant has notified the letting agent of the breach of the sections of the Code in question. The Applicant was advised that it required to have evidence of such intimation. The application was also lacking in specification. The**

Applicant was asked to provide confirmation of the paragraphs of the Code which he considered had been breached by the Letting Agent. He was also asked to provide a copy of the lease in respect of his tenancy of the Property.

4. The Applicant responded on 18th July 2021 but did not provide the information requested. He was written to by the Tribunal on 3rd August 2021 and advised what information was required. The Applicant was advised that, unless he dealt with the issues raised by the Tribunal by 31st August 2021, the application may be rejected by the Chamber President.
5. The Applicant did not respond to the letter of 3rd August 2021 and a reminder was sent on 2nd September requiring the information to be provided by 9th September 2021. The Applicant has not responded.
6. In terms of Rule 95 of the Rules, certain information requires to be provided by an applicant. The Applicant has not provided confirmation that the required intimation has been given to the Letting Agent under Section 48 (4) of the Housing (Scotland) Act 2014. The Applicant was also asked to confirm the paragraphs of the Code which he considered had been breached and to provide a copy of the relevant tenancy agreement. The letters sent to the Applicant by the Tribunal gave full information on what was required.
7. The Applicant did not provide the information to meet the statutory requirements under Sections 48(4) and 48(5) of the 2014 Act.
8. Rule 8(1) (a) of the Rules allows an application to be rejected by the Chamber President if it is considered that “*an application is vexatious or frivolous*”.
9. “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”.
10. The Tribunal considers that this application is frivolous and has no reasonable prospect of success for the reasons given above.

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 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.

Martin J. McAllister, Legal Member, 16th September 2021