

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



**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 Kevin McGregor in terms of Rule 48 of the Rules.

**Case reference FTS/HPC/RP/19/1974**

At Glasgow on the 11 November 2019, Martin Joseph McAllister, legal member of the First –Tier Tribunal ‘the Tribunal’ with delegated powers of the Chamber President, rejected the above application in terms of Rule 8(1)(a) and (c) of the Rules.

1. This is an application by Mr Kevin McGregor in respect of the property at 242 Dalriada Crescent, Forgewood, Motherwell, ML1 3YA (the property) which he rented from Mr Ajay Ahuja (in the tenancy documentation the landlord is designed as Ahuja Holdings), Unit 1, South Fens Business Centre, FENTON Way, Chatteries, Cambridgeshire, PE1 66TT (the Landlord) under a Tenancy Agreement in an irregular form dated 22<sup>nd</sup> January 2019. The application is under Section 22(1) of the Housing (Scotland) Act 2006 ( the 2006 Act) and is in respect of the Landlord’s obligation under Section 14(1)(b) of the said Act to ensure that the property meets the repairing standard under Section 13 of the 2006 Act. The application was undated and was received by the Tribunal Administration on 27 June 2019.
2. The application was accompanied by the following:-
  1. Copies of a Tenancy Agreement titled “Scottish Tenancy Creation Form” which within it styles the tenancy as an “Assured Shorthold.” This document is dated 22<sup>nd</sup> January 2019.
  2. Photographs provided by the applicant.
3. The application was examined and was considered to be lacking in information which would have made it complete. At the time the application was lodged, the applicant was represented by a solicitor. Requests for further information were made on 31<sup>st</sup> July, 18<sup>th</sup> September and 16<sup>th</sup> October all 2019. The Applicant had not provided satisfactory evidence that he had complied with the terms of Section 22 (3) of the 2006 Act. This is a fundamental requirement of such an application.

4. No further substantive information was submitted by the applicant.
5. Rule 8(1)(a) of the Rules allows an application to be rejected by the Chamber President if ***“they consider that an application is vexatious or frivolous”***.
6. ***“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”***.
7. I consider that this application is frivolous or vexatious and has no reasonable prospect of success for the reasons given above.
8. Further, in terms of Rule 8(c) of the rules I have good reason to consider that it would not be appropriate to accept this application. The applicant has failed to provide the information requested of him.

**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.

M McAllister

Martin Joseph McAllister

Legal Member

12<sup>th</sup> November 2019