

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision by the Convener with Delegated Powers of the Chamber President

Under Rule 8 of Schedule 1 to the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) (Regulations) 2017 ('the 2017 rules')

Re: Application to First-tier Tribunal made under Section 22 (1) of the Housing (Scotland) Act 2006 and Rule 48 of the 2017 rules

Chamber Reference Number: FTS/HPC/RP/19/1234

Parties:

Mr Jim Kane (applicant)
Mr Robert More (respondent)

Re: 33 High Street, Avoch, Ross-shire IV9 8PT ('the house')

Decision

After careful consideration of the applicant's application in terms of rule 8 of the 2017 rules, **I have decided that the application should be rejected.**

Reasons for the decision and grounds for rejection

I have considered the application in terms of Rule 8 of the 2017 rules. Rule 8 provides as follows:

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.

The application appears to concern a claim by the applicant for payment of money which he alleges the respondent is due to pay to him in respect of an excessive electricity bill paid by the tenant, which resulted from a fault with the electricity installation within the house. It appears from the application that the fault was rectified by the respondent, and that the applicant is no longer a tenant at the house.

An application under section 22 of the 2006 Act must be made by a tenant, and relates to determining whether the landlord has failed to comply with the duty under section 14(1) (b) of that Act to ensure that the house meets the repairing standard. The tribunal can only make a determination as to whether the landlord has complied with the repairing standard duty, and is unable to award compensation or make payment orders.

As the applicant is no longer a tenant, and the application does not concern repairing standards issues, the application is not a valid repairing standard application in terms of section 22 of the 2006 Act and rule 48 of the 2017 rules.

I have therefore decided to reject your application under Rule 8 (c) of the 2017 rules, as I have good reason to believe that it would not be appropriate to accept the application.

For the reasons stated above, your application is rejected.

What you should do now

If you accept the Convener's decision, there is no need to reply.

If you disagree with this decision –

A party aggrieved by the decision of the Chamber President or the Convener 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.

Yours sincerely

S O'Neill

Sarah O'Neill

Convener

Legal member of the First-tier Tribunal for Scotland (Housing and Property Chamber)