

Housing and Property Chamber
First-tier Tribunal for Scotland



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

Case reference FTS/HPC/EV/23/2521

Parties

Frank Foley, Nancy Foley (Applicant)
Jackson Boyd Lawyers (Applicant’s representative)
Graham Dick, Maxine McClure (Respondent)

7 Kevoc Cottage, St Quivox, Ayr, KA6 5HJ (the Property)

Legal Member

Ruth O’Hare, with delegated powers from the Chamber President

Background

1. This application was made under Rule 65 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”).
2. The application was incomplete. On 31st October 2023 the Tribunal wrote to the Applicant’s representative in the following terms:-

“A Legal Member of the Tribunal with delegated powers of the President has considered your application:

The Notice to quit appears to be invalid. The date specified is 27 June. You have indicated that the tenancy started on 1 March 2013. As no term was agreed, a term of one year is generally assumed. This would mean an ish on 1 March each year. Please clarify the basis upon which the application can be accepted.

Please reply to this office with the necessary information by 14 November 2023. If we do not hear from you within this time, the President may decide to reject the application.”

3. The Tribunal received no response. On 5 December 2023 the Tribunal emailed the Applicant’s representative again in the following terms:-

“Before a decision can be made, we need you to provide us with the following:

Please provide a response to the request for further information issued on 31 October 2023 (see enclosed) within 7 days or it is likely that the application will be rejected."

4. No further response was received from the Applicant's representative.

Decision

5. The circumstances in which an application is to be rejected are governed by Rule 8 of the Chamber 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."

6. After consideration of the application and the lack of any further correspondence from the Applicants, the Legal Member considers that the application should be rejected on the basis 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

7. The Applicants were given the opportunity to provide further information by way of the requests from the Tribunal on 31st October 2023 and 5 December 2023. As at the date of this decision there has been no further response from the Applicants. This additional information requested was necessary to allow the application to proceed. The Applicant's representative was warned on two

occasions that failure to respond may lead to the application being rejected. In the absence of any response from the Applicants it would not be appropriate to accept the application and it should therefore be 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 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.

Ruth O'Hare

Ruth O'Hare, Legal Member

16 January 2024