



**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 Mrs Helen Horne in terms of rule 109 of the Rules.

**Case reference FTS/HPC/EV/22/1166**

At Glasgow on the 28 July 2022, Lesley Anne Ward, 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 Mrs Helen Horne for eviction in terms of rule 109 of the Rules. The application was made on her behalf by Mrs Lesley Davie of Direct Lettings (Scotland) Ltd.
2. The inhouse convenor reviewed the application and the tribunal wrote to the applicant’s representative on 13 May 2022 seeking further information as follows:
  - *Please provide a copy of the tenancy agreement.*
  - *Please explain why the Notice to leave is addressed to Kyle McDonald but the second Respondent named on the Form E is Daryl Dundee. If there has been a change of name, please advise if you wish the second respondent to be described as Kyle McDonald AKA Daryl Dundee. Please note that the application must be made against all tenants named on the tenancy agreement.*
  - *The property appears to be jointly owned. Please advise if the joint owners should be added as joint Applicants (and provide contact details) or provide written authority from them for the application to proceed in the sole name of the Applicant.*
  - *Please provide an address or addresses for the Applicant(s), a c/o address cannot be used. Please provide a copy of the section 11 notice – you have only provided evidence that this was received.*
  - *Please provide evidence of landlord registration.*

3. The applicant's representative made a partial response on 27 May 2022 by providing an address for the applicant. The tribunal sent a further substantive letter on 17 June 2022 as follows:

*We wrote to you on 13 May 2022 and you responded on 27 May 2022 however most of our requests for further information remains outstanding. Please note we require your answer to the following within 14 days. If not the President may decide to reject your application. No further reminders will be sent:*

*1. We note there are four owners to the property. Please advise if all four are to be noted as applicants. If so, please provide their full names and addresses (we are still waiting on an address for the current applicant). Please provide their authorisation for you to act on their behalf in this matter.*

*2. Please provide the s11 notice. All we have is the email sending this.*

*3. Please provide proof of service of the notice to leave on each tenant accordance with the tenancy agreement.*

*4. Please provide proof that the eviction ground is met, for example please provide a recent home report or a contract with a solicitor or estate agency.*

*5. We have checked and we cannot find any evidence that your client is on the register of landlords for the property. Please clarify*

4. No further documentation has been received since.
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 as the essential information required for it to proceed has not been provided, despite two detailed requests for information being sent by the tribunal. 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 as it is incomplete and the applicant has failed to cooperate with the tribunal in the execution of its duties.

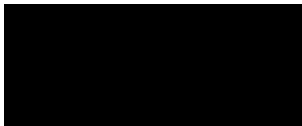
8. It is open for the applicant to resubmit the application with the correct supporting documentation.

**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.



Lesley Anne Ward

Legal Member