



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 Miss Georgia Smith, 193A South Street, St Andrews, Fife, KY16 9EE (the Applicant) in terms of Rule 95 of the Rules.

Letting Agent: Alba St Andrews, 195 South Street, St Andrews, Fife, KY16 9EE

Case reference FTS/HPC/LA/19/2692

Address of Property: 2E Murray Park, St Andrews, Fife, KY16 9AW (the “Property”).

At Glasgow on the 4 February 2020, 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) of the Rules.

1. This is an application by the Applicant in respect of complaints she has in relation to the Letting Agent’s management of the Property which she rents. 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 was accompanied by an email detailing a number of issues.
3. The tribunal wrote to the Applicant on 6 September 2019 requesting that further information be provided and indicating that such information would require to be provided before the application could be considered. The letter stated that the information must be provided by 4 October 2019. On 10th October the Applicant indicated that she could not provide the information requested because she was in the midst of studies. On 31st October 2019 the tribunal wrote to the Applicant giving her until 31st December 2019 to provide the information. No information was provided by that date and a further letter was sent to the Applicant on 13 January 2020 requesting that the necessary information be provided by 20 January 2020. The letter stated that, if the necessary information were not provided, the Chamber President may decide to reject the application.

4. 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 letter sent to the Applicant by the Tribunal on 6th September 2019 gave full information of what was required.
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. The Tribunal considers that this application is frivolous or vexatious 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