

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 Antony Swan in terms of Rule 48 of the Rules.

Case reference FTS/HPC/RP/19/3326

At Glasgow on the 24TH December 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 Antony Swan in respect of the property at 26 Causewayhead Road, Stirling, FK9 5EU (the property) which he rents from Ms Joan Shaw (in the tenancy documentation the landlords agent is given as Martin & Co, 14 King Street, Stirling, FK8 1AY) (the Landlord) under a Short Assured Tenancy Agreement dated 13th June 2017. 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 is dated 14th October 2019 and was received by the Tribunal Administration on 17th October 2019.
2. The application was accompanied by a copy of the Short Assured Tenancy Agreement.
3. The application was examined and was considered to be lacking in information which would have made it complete. Requests for further information were made on 6th November and 10th December both 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 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.

Martin McAllister

Martin Joseph McAllister

Legal Member

24th December 2019