



**Decision with Statement of Reasons of H Forbes, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber)**

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

**Chamber Ref: FTS/HPC/PR/23/3179**

**Parties:**

**Arfan Dad ("the Applicant")**

**Shirley Gibson ("the Respondent")**

**Tribunal Member:**

**H Forbes (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be dismissed on the basis that it would not be appropriate to accept the application in terms of Rule 8(1)(c) of the Procedural Rules.**

**Background**

1. An application for a wrongful termination order was made under Rule 110 on 9<sup>th</sup> September 2023 and lodged with associated documentation.
2. A Legal Member of the Tribunal considered the application and an email was sent to the Applicant requesting the following information on 28<sup>th</sup> September 2023:

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

- The entry in box 7 b of the application cannot be fully read as the text stops mid-sentence. Please provide the content in a separate document.
- In terms of the Private Housing (Tenancies) (Scotland) Act 2016 there are two scenarios for which an order for wrongful termination can be applied for. Either S 57 of the Act, which relates to cases where the Tribunal has granted an eviction order, for which no evidence has been



provided, or S 58, which requires that the tenancy has been brought to an end in accordance with s 50 of the Act. S 50 relates to cases where the tenant has received a notice to leave from the landlord and has then moved out. The information provided indicates that notice was given by you rather than by the landlord on 29 May 2023. Please make representations as to why you consider either S 57 or S 58 of the 2016 Act applies in this case. You may wish to obtain legal advice.

- Please provide as required under rule 110 (b) evidence that the tenancy was unlawfully terminated.

Please reply to this office with the necessary information by 12 October 2023. If we do not hear from you within this time, the President may decide to reject the application.

No response was received.

3. By emails dated 13<sup>th</sup> November 2023 and 10<sup>th</sup> January 2024, the Applicant was given further opportunities to provide the requested information. No response was received to either email.
4. The application was considered by a Legal Member on 11<sup>h</sup> March 2024.

### Reasons for Decision

5. The Tribunal considered the application in terms of 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 ...*

*(c) they have good reason to believe that it would not be appropriate to accept the application;*

*(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. The Applicant has failed to provide information to confirm whether the application is made under section 57 or section 58 of the Private Housing (Tenancies) (Scotland) Act 2016. It is not clear that either section applies in this application. The information provided indicates that notice was given by the Applicant rather than by the Respondent on 29 May 2023, and this would not constitute a basis for a wrongful termination order as it does not comply with the requirements of either section 57 or section 58. Furthermore, the Applicant has not provided any evidence in terms of Rule 110(b) of the Procedural rules that the tenancy was unlawfully terminated. This evidence is required before an application can be accepted.
7. There is good reason to believe it would not be appropriate to accept the application. The application is accordingly rejected.

### Right of Appeal

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal 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.**

H. Forbes

11<sup>th</sup> March 2024

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Legal Member/Chair

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Date