



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rules 8(1) and 26 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Chamber Ref: FTS/HPC/EV/24/3416

16 Plane Place, Viewpark, Uddingston, Glasgow, G71 5HY ("the Property")

Parties:

**Martin Ritchie ("Applicant")
Linda Cusick ("Respondent")**

Tribunal Member: Ruth O'Hare (Legal Member)

Decision

The Tribunal rejects the application by the Applicant received by it on 25 July 2024 under Rule 8(1)(c) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules").

Background

- 1 The Applicant submitted an application to the Tribunal by email under Rule 65 of the Rules seeking an eviction order against the Respondent.
- 2 On 21 August 2024 the Tribunal wrote to the Applicant under Rule 5 of the Rules requesting further information in order for the application to meet the required manner of lodgement. In particular the Tribunal requested a copy of the tenancy agreement, the form AT5, evidence of service of the notices upon the tenant, and a copy of the notice which was required to be given to the local authority under section 11 of the Homelessness (Scotland) Act 2003 together with proof of service. The Tribunal asked the Applicant to respond within two weeks.
- 3 On 12 September 2024 the Tribunal received a letter from the Applicant with copy pages of the tenancy agreement. The Applicant stated that the tenancy was a short assured tenancy and he needed to recover possession in order to sell. The Respondent had been told by the council to remain in the property. The Applicant outlined a deterioration in his own health and asked the Tribunal to seriously consider the application. He confirmed that he had sent the Tribunal all of the documentation he had.

- 4 On 17 October 2024 the Tribunal wrote again to the Applicant. The Tribunal noted the circumstances he had outlined in his letter and encouraged him to seek advice or appoint a representative to act on his behalf. The Tribunal asked again for the information requested in its previous correspondence, explaining that the information was required before a decision could be made on whether the application could proceed to a Tribunal for determination. The Tribunal also highlighted potential defects with the notice to quit and asked for clarification on which rule the Applicant wished to rely upon. The Applicant was asked to respond by 31st October 2024.
- 5 The Tribunal received no response from the Applicant. On 4 December 2024 the Tribunal wrote again to the Applicant asking him to respond within 7 days or the application would likely be rejected. Alternatively the Applicant was asked to confirm that he wished to withdraw the application.
- 6 No further response was received from the Applicant.

Reasons for Decision

- 7 The Legal Member carefully considered the application in terms of the Rules and determined that the application had to be rejected in terms of Rule 8(1) (c) which states that an application must be rejected if the Tribunal has “good reason to believe that it would not be appropriate to accept the application.”
- 8 The basis of the decision is that the Applicant has failed to provide the information requested by the Tribunal under Rule 5(3) of the Rules which is necessary to meet the required manner for lodgement. The Applicant has been asked for the information on three occasions and has been notified that a failure to provide the information may result in the application being rejected. Whilst the Legal Member has sympathy for the Applicant’s health issues, he has been advised that he can appoint a representative to deal with the matter on his behalf. He has not done so. Accordingly the Legal Member has concluded that the application cannot be accepted in its current form and must be rejected under Rule 8(1)(c).
- 9 For the avoidance of doubt there is nothing to prevent the Applicant from submitting a further application to the Tribunal if he wishes to do so. The Legal Member would strongly encourage him to seek independent legal advice in order to ensure that any such application meets the requirements of the Rules.

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: A party 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, Legal Member
23 January 2025