



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 Easton Property Limited in terms of rule 109 of the Rules.

Case reference FTS/HPC/EV/22/1938

At Glasgow on the 7 October 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 Easton Property Limited for eviction proceeding in terms of rule 109 of the Rules. The application was accompanied by a second application to recover rent arrears. The second application is complete and has now been accepted.
2. The inhouse convenor reviewed the application and the tribunal wrote to the applicant on 5 July 2022 seeking further information as follows:
 - I refer to your recent application which has been referred to the Chamber President for consideration. Before a decision can be made, we need you to provide us with the following:
 - Please advise if you mean to insist on ground 11 as set out in your application. Ground 11 is for a breach of the tenancy agreement that does not relate to rent arrears. You have not averred any other breach. Please advise if you wish to remove this ground of eviction as it is not mentioned in the notice to leave either. If you do wish to rely on it please provide a notice to leave that refers to both grounds and please advise what breach you are relying on for ground 11?
 - Please advise if and how you complied with the pre-action requirements contained in the Rent Arrears Pre-action Requirements (Coronavirus) (Scotland) Regulations 2020 and if you have complied please provide evidence of this.

Please reply to this office with the necessary information by 19 July 2022. If we do not hear from you within this time, the President may decide to reject the application.

3. The applicant did not respond. A further letter was sent on 23 August 2022 giving a further copy of the letter of 5 July 2022 and seeking a response by 6 September 2022.
4. 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”**.
5. “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”.
6. 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 a request being sent by the tribunal and a reminder. 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 the applicant has failed to cooperate with the tribunal in the execution of its duties.
7. It is open for Easton Property Limited 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

