



Decision with Statement of Reasons of Shirley Evans, 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/22/2143

Re: 16 Rice Way, Motherwell, ML1 2JL ("the Property")

Parties

**Chris Kerr and Shaun Longstaff (Applicants)
Angela Orugbo (Respondent)**

Penny Lane Homes(Applicants' Representative)

Tribunal Member:

Shirley Evans (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 is frivolous within the meaning of Rule 8(1)(a) of the Procedural Rules.

Background

1. The application was received by the Tribunal under Rule 111 on 30 June 2022. The following documents were enclosed with the application:

- (i) Tenancy Agreement commencing 15 November 2019; and
- (ii) Rent Statement to 30 June 2022.

2. The application was considered by the Tribunal. On 1 August 2022 the Tribunal requested further information with regard to the Applicants' addresses and spelling of their names together with proof of authority from the Applicants to allow Penny Lane Homes to act on their behalf.

3. In response the Applicants' agent provided confirmation of the address and name and enclosed proof of identity documents including a driving licence and a passport. The Tribunal wrote to the Applicants' agent on 16 September 2022 to request whether they were happy for the Tribunal to intimate this information to the Respondent or alternatively to provide redacted copies. The Tribunal also requested confirmation that the address provided related to both Applicants. The Tribunal requested this information by 30 September 2022.

4. There was no response to this request for information. The Tribunal again requested the information in their letter to the Applicants' agent on 13 October 2022 and requested the information be provided by 27 October. There has been no response.

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;·

(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."

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. In this case the Applicants' agent has been asked on two separate occasions by the Tribunal to clarify the position in relation to the Applicants' addresses and whether they are content for unredacted information to be forwarded to the Respondent as part of the application. They have been given more than ample opportunity to respond to these requests, but have failed to do so. Without clarification of what their position is, the current application cannot proceed.

7. Applying the test identified by Lord Justice Bingham in the case of ***R v North West Suffolk (Mildenhall) Magistrates Court*** (cited above) the application is frivolous, misconceived and has no prospect of success. 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.

S Evans

23 November 2022

Legal Member

Date