



**DECISION AND STATEMENT OF REASONS OF PETRA HENNIG MCFATRIDGE LEGAL
MEMBER OF THE FIRST-TIER TRIBUNAL WITH DELEGATED POWERS OF THE CHAMBER
PRESIDENT**

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

in connection with

Chamber Ref: FTS/HPC/PR/23/0226

Parties

Mrs Reem Ayash (Applicant)

Mr Leonard Mary Duruemezuo (Respondent)

Mr Basil Hamza (Applicant's Representative)

66/3 Granton Crescent, Edinburgh, EH5 1PA (House)

A BACKGROUND

1. On 5 January 2023 the applicant's representative lodged with the First –tier Tribunal for Scotland, Housing and Property Chamber (the Tribunal) an application made under rule 81 of the Procedural Rules. The application documents are referred to for their terms and held to be incorporated herein.

2. The application relates to a tenancy agreement which commenced on 6 July 2020 and thus would be a Private Residential Tenancy. The landlord registered for the property is Mr Hamza but the landlord is Mrs Ayash, who is also the owner of the property.
3. On 14 February 2023 the Tribunal wrote to the applicant's representatives in the following terms: A rule 81 application is used to amend a rent increase notice, where an error or omission has been made. That is not what you are seeking to do. You appear to be asking the Tribunal to ensure that the rent is increased. That is not within the remit of the Tribunal. Please confirm that you are withdrawing the application. Please reply to this office with the necessary information by 28 February 2023. If we do not hear from you within this time, the President may decide to reject the application.
4. By 21 March 2023 still no reply had been received.

B DECISION

1. I considered the application in terms of Rule 8 of the 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;

(b) the dispute to which the application relates has been resolved;

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

(d) they consider that the application is being made for a purpose other than a purpose specified in the application; or

(e) the applicant has previously made an identical or substantially similar application and in the opinion of the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, there has been no significant change in any material considerations since the identical or substantially similar application was determined.

(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."

2. **After consideration of the application, the attachments and correspondence from the Applicant, I consider that the application should be rejected in terms of Rule 8 (c) of the Rules of Procedure on the basis as the Tribunal has good reason to believe that it would not be appropriate to accept the application.**

C REASONS FOR DECISION

1. The Application is made under Rule 81 of the Procedural Rules and S 32 of the Rent (Scotland) Act 1984.

The relevant rule states: Application to amend a rent increase notice Rule 81 *Where a landlord makes an application under section 32(4) (notices of increase) of the 1984 Act, the application must—*

(a)state—

(i)the name, address and registration number (if any) of the landlord;

(ii)the name, address and profession of any representative of the landlord;

(iii)the name and address of the tenant; and

(iv)the reasons for seeking amendment to the notice of increase;

(b)be accompanied by a copy of the rent increase notice; and

(c)be signed and dated by the landlord or a representative of the landlord.

2. Rent Scotland Act 1984 S 32 Notices of increase.,,,

(4)If the First-tier Tribunal is satisfied that any error or omission in a notice of increase is due to a bona fide mistake on the part of the landlord, the First-tier Tribunal may order the amendment of the notice by correcting any error or supplying any omission therein which, if not corrected or supplied, would render the notice invalid and, if the First-tier Tribunal so directs, the notice as so amended shall have effect and be deemed to have had effect as a valid notice.

3. The application is seeking to "increase the rent from 825 to 950 from the date of

16/09/2022 and to on". The application is not seeking to amend a rent increase notice. The application did not state which amendment to the rent increase notice would be required and why.

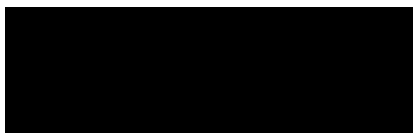
4. It would not be appropriate for the Tribunal to accept an application that does not seek an order which can be granted under the rule and legislation under which the application is made. In an application under rule 81 the Tribunal cannot make an order as requested in the application, it can only make an order to " amend a notice by correcting any error or supplying any omission therein, which, if not corrected or supplied, would render the notice invalid". The application is thus rejected.

What you should do now

If you accept the Legal Member's decision, there is no need to reply.

If you disagree with this decision:-

An applicant aggrieved by the 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 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. Information about the appeal procedure can be forwarded to you on request.



Petra Hennig McFatridge
Legal Member
21 March 2022