



**DECISION AND STATEMENT OF REASONS OF JOSEPHINE BONNAR,  
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 Procedure Rules")**

**in connection with**

**16 Calgary Avenue, Livingstone ("the Property")**

**Case Reference: FTS/HPC/EV/23/2501**

**Newport Asset Management, 2 Firth Road, Houston Industrial Estate,  
Livingstone ("the Applicant")**

**Bruno Miguel Rodriguez Cagica ("the Respondent")**

1. The Applicant seeks an order for possession in in terms of Rule 65 of the Procedure Rules and Section 18 of the Housing (Scotland) Act 1988.
2. The Tribunal issued a request for information and documents on 16 August 2023. The Applicant was directed to provide a copy of the Notice to Quit which had been served on the Respondent and clarify the validity of the AT6 notice as it was dated 26 July 2023 and stipulated that the earliest date that proceedings could be raised was also 26 July 2023. It therefore appeared that the notice period required in terms of the 1988 Act had not been given. The Applicant did not respond to the request or to reminders sent on 19 September and 23 October 2023

**Decision**

3. After consideration of the application the Legal Member considers that the application should be rejected in terms of Rule 8(1)(c) of the Tribunal Procedure Rules 2017 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."

## Reasons for Decision

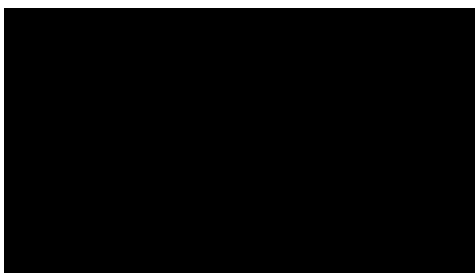
4. Rule 5 of the Procedure Rules states that an application “is held to have been made on the date that it is lodged if, on that date, it is lodged in the manner as set out in rules.....65 to 70.....or 105 to 111, as appropriate”. In terms of Rules 5(2) and (3) the Chamber President or a Member with delegated powers must assess whether the “mandatory requirements for lodgement have been met” and “may request further documents”. Rule 65 requires an Applicant to lodge a Notice to Quit, if applicable. A Notice to Quit is required to establish that the tenancy contract has been terminated in all applications under Rule 65 unless Section 18(6) of the 1988 applies. The tenancy agreement lodged with the application does not narrate the grounds for possession which are contained in the application and AT6. As a result, Section 18(6) cannot apply. Rule 65 also requires an Applicant to submit an AT6 notice that has been served on the Respondent. The AT6 notice is dated the 26 July 2023. It states that proceedings cannot be raised until 26 July 2023. This is also the date that the application was lodged with the Tribunal. The Notice has not provided the Respondent with the period of notice specified in Section 19 of the 1988 Act. The Legal Member is therefore satisfied that the Applicant has failed to provide a valid AT6 notice with the application. The Applicant has also failed to provide the required documents in response to a request from the Tribunal in terms of Rules 5(2) and (3) of the Procedure Rules
5. As the Applicant has failed to comply with Rules 5 and 65 of the Procedure Rules, the Legal Member is satisfied that there is good reason to believe that it would not be appropriate to accept the application. The application is rejected on that basis.

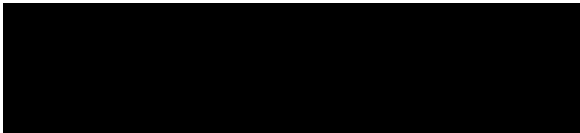
## What you should do now

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.





21 November 2023