

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”)**

Case reference FTS/HPC/EV/23/2946

**Parties**

**Helen Burke, Ronnie Lamont (Applicant)**  
**Joanna James, Karol Sieradzinsk (Respondent)**

**49 Arthur Street, Dunfermline, KY12 0JP (the Property)**

**Legal Member**

Ruth O’Hare, with delegated powers from the Chamber President

**Background**

1. This application was made under Rule 109 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”).
2. The application was incomplete. On 26<sup>th</sup> October 2023 the Tribunal wrote to the Applicant’s representative in the following terms:-

*“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:*

*• You have not provided satisfactory evidence of service of the Notice to leave. If you wish to rely on the emails, as specified in the tenancy agreement, you must provide clear evidence that the emails were sent to both Respondents with the Notices attached and the date they were sent. The document submitted does not do this. If you wish to rely on the postal service please provide a track and trace report or other evidence of receipt/delivery.*

*Please reply to this office with the necessary information by 9 November 2023. If we do not hear from you within this time, the President may decide to reject the application.”*

3. The Tribunal received an email from the Applicant’s representative on 26<sup>th</sup> October 2023 providing evidence of service by way of an email to the first named Respondent. The Tribunal emailed the Applicant’s representative on 17 November 2023 in the following terms:-

*“Before a decision can be made, we need you to provide us with the following:*

*You have submitted a copy of an email to the First respondent. In terms of the tenancy agreement the second respondent has a separate email address. Please provide a copy of an email sent to him with the Notice. Alternatively, if the Notice was sent to him by post, please provide post office certificate of posting and a track and trace report or other evidence that it was received. The Notice has to be served on both Respondents if the application is to proceed.*

*Please reply to this office with the necessary information by 1 December 2023. If we do not hear from you within this time, the President may decide to reject the application.”*

4. No further response was received from the Applicant’s representative.

### **Decision**

5. The circumstances in which an application is to be rejected are governed by 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;*

*(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.”*

6. After consideration of the application, the further information referred to and the lack of any further correspondence from the Applicants, the Legal Member considers that the application should be rejected on the basis that it would not

be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

### **Reasons for Decision**

7. The Applicants were given the opportunity to provide further information by way of the request from the Tribunal on 17 November 2023. As at the date of this decision there has been no further response from the Applicants. This additional information requested was necessary to allow the application to proceed. The Applicant's representative was warned that failure to respond may lead to the application being rejected. In the absence of any response from the Applicants it would not be appropriate to accept the application and it should therefore be rejected.

**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.

**Ruth O'Hare, Legal Member**

**16 January 2024**