



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 26 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)**

Chamber Ref: FTS/HPC/RE/23/3308

Re: 4 Terrace Cottage, Auchinies, Blairs, AB12 5YS ("the Property")

Parties:

The James Gray Nicol Trust ("the Applicant")

Bell Ingram LLP ("the Applicant's Representative")

Judith Smith ("the Respondent")

Tribunal Member: Martin J. McAllister (Legal Member)

**The Tribunal rejects the application by the applicant dated 18 September 2023 which is an application under Section 28 A (1) of the Housing (Scotland) Act 2006 (“the 2006 Act”) and Rule 55 of the Rules.**

**Background**

1. The Applicant's Representative submitted an application dated 19 September 2023 for assistance with obtaining access to the Property.
2. On 9 October 2023, the Applicant's Representative was asked to provide contact details of the person requiring access to the Property, the current address of the Respondent and evidence that the respondent had refused or failed to give access after the appropriate notification had been given to her.
3. No response was received and a reminder was sent to the Applicant's Representative on 2 November 2023. A response was received on the same

date and the Tribunal was asked to allow more time for response because the current address of the Respondent was unknown.

4. On 20 November 2023 the Tribunal suggested to the Applicant's Representative that it might consider service of notification on the Respondent by having it delivered by Sheriff Officers.
5. Having received no response to the requests for information, the Tribunal sent a reminder to the Applicant's Representative on 21 December 2023. No response has been received.
6. The request for information was in terms of Rule 5 (3) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules").

### **Decision**

7. **After consideration of the application, the Legal Member considers that the application should be rejected in terms of Rule 8(1) (c) 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." The basis of the decision is that the Applicant has failed to comply with Rule 5 and Rule 55 of the Rules and Section 28 A (4) of the 2006 Act.**

### **Reasons**

8. The Legal Member considered the application in terms of Rule 5 and Rule 55 of the Chamber Procedural Rules. Rule 5 provides: - (1) 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 43, 47 to 50, 55, 59, 61, 65 to 70, 72, 75 to 91, 93 to 95, 98 to 101, 103 or 105 to 111, as appropriate. (2) The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged in the required manner by assessing whether all mandatory requirements for lodgment have been met. (3) If it is determined that an application has not been lodged in the prescribed manner, the Chamber President or another member of

the First-tier Tribunal, under the delegated powers of the Chamber President, may request further documents and the application is to be held to be made on the date that the First-tier Tribunal receives the last of any outstanding documents necessary to meet the requirement manner for lodgment. “

9. The Applicant was asked to evidence of notification and other information in terms of Rule 5 and Rule 55 (b) (ii) of the Rules.

10. The Applicant has not complied with the requests for information.

Martin J. McAllister, Legal Member, 10 January 2024