



**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")**

Case Reference: FTS/HPC/EV/23/3709

68 Broomlands Drive, Irvine ("the Property")

John McAuley, 13 Ranken Crescent, Irvine ("the Applicant")

Margaret McKenna, 68 Broomlands Drive, Irvine ("the Respondent")

1. The Applicant seeks an order for possession in in terms of Rule 66 of the Procedure Rules and Section 33 of the Housing (Scotland) Act 1988.
2. The Tribunal issued a request for information and documents on 16 November 2023. The Applicant was directed to clarify the validity of the Notice to quit, as the date specified in the notice did not coincide with an ish date. The Applicant was also instructed to provide a copy of the section 11 notice sent to the Local authority and evidence of service of the section 33 and notice to quit on the Respondent. The Applicant was notified that a failure to respond might result in the application being rejected. The Applicant has not provided a response to the request or to reminders send on 28 December 2023 and 9 February 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..., 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 66 requires an Applicant to lodge a copy of the Notice to quit and a copy of the Section 11 Notice sent to the Local Authority. The Applicant has not lodged a section 11 notice and failed to provide it in response to requests for further information issued in terms of Rule 5(3) of the Procedure Rules. The Applicant has provided a Notice to quit. However, this appears to be invalid and the Applicant has failed to respond to a request for an explanation of the date specified in the notice or clarify why he considers the notice to meet the requirements of the legislation.

5. As the Applicant has failed to comply with Rules 5 and 66 of the Procedure Rules, and has failed to lodge a valid notice to quit, 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.

Josephine Bonnar, Legal Member
20 March 2024