



**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**

**2 Bridgegate, Peebles ("the Property")**

**Case Reference: FTS/HPC/EV/21/2571**

**Trustees of Lodge Peebles Kilwinning 24, 2 Provost Melrose Place, Peebles  
("the Applicant")**

**Ian McLean, Kathryn Lowther, 2 Bridgegate, Peebles ("the Respondent")**

1. The Applicant seeks an eviction order against the Respondents in terms of Rule 109 of the Procedure Rules and Section 51 of the Private Housing Tenancies (Scotland) Act 2016 ("the 2016 Act"). No documents were lodged with the application.
2. The Tribunal issued a request for further information on 10 November 2021. The Applicant was directed to provide a copy of the Notice to leave given to the Respondents, a copy of the Section 11 Notice sent to the Local Authority and evidence in support of the eviction ground. The Applicant was also asked to clarify the eviction ground, as the application form did not identify a valid ground in terms of the 2016 Act. The Applicant twice requested further time to provide the information requested. Both of these requests were granted and the Applicant was directed to respond by 23 December 2021, or the application might be rejected. No further response was received to this letter or a further

reminder issued on 17 January 2022, stating that if a response was not received within 7 days it was likely that the application would be rejected.

## **Decision**

3. 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.”

## **Reasons for Decision**

4. The Applicant submitted an application for an eviction order in terms of Rule 109 of the Rules. The Tribunal directed the Applicant to provide additional information and documentation. In particular, the Applicant was directed to provide a copy of the Notice to leave, section 11 notice, evidence in support of the eviction ground and specify a valid eviction ground. The Applicant has failed to respond to three requests for the information and documents to be provided.
5. 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.....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 109 requires an Applicant to specify the eviction ground upon which the application is based and to lodge evidence showing that the eviction ground has been met, a copy of the Notice to leave given to the Respondent and a copy of the notice to the Local authority required by Section 56(1) of the 2016 Act (the section 11 notice). The Applicant failed to lodge these documents and information with the application and has also failed to do so in response to requests from the Tribunal in terms of Rule 5(3).
6. As the Applicant has failed to comply with Rules 5 and 109 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.

Josephine Bonnar, Legal Member  
8 February 2022