



**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

49 Wellington Street, Wishaw ("the Property")

Case Reference: FTS/HPC/CV/21/2478

Duncan Vaux, 250 Myton Road, Warwickshire ("the Applicant")

**Darren Knox, John Kennedy, 29 Wellington Street, Wishaw; 21 Broompark
Road, Wishaw ("the Respondent")**

1. The Applicant seeks a payment order against the tenant of the property and his guarantor, in relation to unpaid rent. A related application for an eviction order was also submitted.
2. The Tribunal issued a further request for further information on 9 November 2021. The Applicant was directed to provide a mandate authorising the letting agent to make the application on his behalf, to amend the application form so that it provided fair notice of the sum sought by way of a payment order and to provide evidence that the Applicant had applied to the guarantor for payment of the outstanding sums before lodging the application. The Applicant did not provide a response to this letter or to two further letters issued on 3 December 2021 and 6 January 2022, giving him a further opportunity to respond. The Applicant was notified that if he failed to respond, the application might be rejected. The related eviction application was rejected on 6 January 2022.

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 order for payment in terms of Rule 111 of the Rules. The Tribunal directed the Applicant to provide additional information and documentation. In particular, the Applicant was directed to provide a mandate in favour of their representative and evidence that the Guarantor, who does not reside in the property, had been made aware of the arrears of rent and asked to pay these. In addition, the Applicant has been notified that the application does not meet the mandatory requirements for lodgement (in terms of Rules 5 and 111 of the Procedure Rules). He was directed to amend the application to rectify this defect, in terms of Rule 5(3). This states that a party may be required to lodge further documents by the Chamber President or another Member of the Tribunal with the delegated powers of the President. The Applicant has failed to reply to three letters from the Tribunal requiring him to provide further documents. The Legal Member is therefore 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.

J Bonnar

Josephine Bonnar, Legal Member
4 February 2022