



**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

48 Erskine View, Old Kilpatrick ("the Property")

Case Reference: FTS/HPC/EV/21/2822

Julie Wylie, Flat 1/ 2 Miller Street, Glasgow ("the Applicant")

Justine Cooper, 48 Erskine View, Old Kilpatrick ("the Respondent")

1. The Applicant lodged an application with the Tribunal seeking an eviction order in terms of Rule 109 of the Procedure Rules and Section 51 of the Private Housing Tenancies (Scotland) Act 2016.
2. On 8 December 2021, the Tribunal issued a request for further information and documents. The Applicant was asked to provide a copy of the tenancy agreement, a further copy of the Notice to leave as the document submitted was incomplete, evidence of service of the Notice to leave, a copy of the section 11 notice sent to the Local Authority and evidence in support of the eviction ground. The Applicant failed to respond. Two further letters were issued, on 13 January and 24 February 2022, directing the Applicant to provide a response or the application may be rejected. No response has been received.

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 Applicant did not lodge a copy of the tenancy agreement, a complete copy of the Notice to leave, a copy of a Section 11 notice or evidence in support of the eviction ground, with the application. The Tribunal has issued a number of letters to the Applicant directing her to provide these documents together with evidence of service of the Notices. The Applicant has failed to respond.
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 lodge a copy of the Notice to leave, the section 11 notice and evidence in support of the eviction ground. . The Applicant did not submit these with the application and has failed to provide documents requested by 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
24 March 2022