



**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 Mill Park, Hamilton ("the Property")**

**Case Reference: FTS/HPC/CV/21/2684**

**Liam Watkins, 178 Quarry Street, New Stevenson, Motherwell ("the Applicant")**

**Robert Dickie, 185 Mill Road, Hamilton ("the Respondent")**

1. The Applicant seeks a payment order against his former landlord under Rule 111 of the Procedure Rules. In the application form, the Applicant states that he is seeking compensation for the cost of cleaning and decorating the property following an unlawful eviction. No documents were lodged with the application.
2. The Tribunal issued a further request for further information on 17 November 2021. The Applicant was directed to provide a copy of the tenancy agreement. He was also asked to clarify the legal basis of the application and notified that if he was seeking a wrongful termination order this would require an application under Rule 110 and should be accompanied by a copy of the Notice to leave or the eviction order. On the other hand, if the Applicant was seeking reimbursement of sums spent on the property the Applicant was required to explain the legal basis of the application and provide evidence in the form of receipts and vouchers. The Applicant did not respond to the letter or to a reminder sent on 14 December 2021. In response to a further reminder emailed

to the Applicant on 17 January 2022, which stated that it was likely that the application would be rejected if he did not provide a response by 24 January 2022, the Applicant sent an email stating that he had not received the previous letters. He provided updated address details. A further email was issued advising him that the previous letters had been issued by email, not by post and providing him with further copies. He was again notified that a response was required by 24 January 2022. No further 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 a payment order 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 copy of the tenancy agreement, clarification of the legal basis of the application and either documents required by Rule 110 (if the application was to be amended to this Rule) or Rule 111. 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”. Both Rules 110 and 111 require an Applicant to lodge evidence and documents in support of the application. The Applicant has failed to lodge this evidence with the application and has also failed to do so in

response to requests from the Tribunal in terms of Rule 5(3). The Applicant has also failed to adequately state the reason for the application, as required by Rule 111.

6. As the Applicant has failed to comply with Rules 5 and either Rule 110 or 111, 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