



**DECISION AND STATEMENT OF REASONS OF JOSEPHINE BONNAR,  
LEGAL MEMBER OF THE FIRST-TIER TRIBUNAL WITH DELEGATED  
POWERS OF THE CHAMBER PRESIDENT**

**Under Rule 5 of the First-tier Tribunal for Scotland Housing and Property  
Chamber Rules of Procedure 2017 ("the Rules")**

**in connection with**

**30 Pladda Avenue, Broomlands, Irvine ("the property")**

**Case Reference: FTS/HPC/EV/20/1657**

**Christine Paton, 105 Sillars Meadow, Irvine ("the Applicant")**

**John Cox, Robert Cox, 30 Pladda Avenue, Broomlands, Irvine ("the  
Respondents")**

1. By application received on 5 August 2020, the Applicant seeks an eviction order in terms of Rule 109 of the Rules and Section 51 Private Housing (Tenancies) (Scotland) Act 2016. The eviction ground stated in the application form is breach of tenancy agreement. A Notice to Quit and Notice in terms of Section 33 of the Housing (Scotland) Act 1988 were submitted with the application.
2. On 27 August 2020, the Tribunal issued a letter to the Applicant which directed the Applicant to provide a copy of the tenancy agreement, a copy of the Notice to Leave which had been served on the Respondents, evidence of the eviction ground and a copy of the Section 11 Notice sent to the Local Authority in terms of the Homelessness etc (Scotland) Act 2003. No response was received. On 16 September 2020 a further letter was issued which directed the Applicant to provide the information and documents previously requested within 14 days or

the application may be rejected. No response has been received.

## **DECISION**

3. The Legal Member considered the application in terms of Rule 5 of the Chamber Procedural Rules. That Rule provides:-

“(1) 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 43, 47 to 50, 55, 59, 61, 65 to 70, 72, 75 to 91, 93 to 95, 98 to 101, 103 or 105 to 111, as appropriate.

(2) The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged in the required manner by assessing whether all mandatory requirements for lodgment have been met.

(3) If it is determined that an application has not been lodged in the prescribed manner, the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, may request further documents and the application is to be held to be made on the date that the First-tier Tribunal receives the last of any outstanding documents necessary to meet the requirement manner for lodgment. “

- 4. After consideration of the application, the supporting documentation and correspondence from the Applicant, the Legal Member considers that the application should be rejected on the basis that the Applicant has failed to comply with Rule 5.**

### **Reasons for Decision**

5. The Applicant submitted an application for an eviction order in terms of Rule

109 of the Procedural Rules. This Rule states that the application must “(b) be accompanied by – (i) evidence showing that the eviction ground has been met; (ii) a copy of the Notice to Leave given to the tenant as required under Section 52(3) of the 2016 Act, and (iii) a copy of the notice given to the local authority as required under section 56(1) of the 2016 Act. “. The Applicant has failed to submit evidence of the eviction ground, a copy of the Notice to Leave and a copy of the Notice to the local Authority. On 26 August and 16 September the Tribunal wrote to the Applicant, directing the Applicant to lodge the required documents. The Applicant has failed to respond or provide the required documents.

6. As the Applicant has failed to provide the documents required in terms of Rule 109 of the Rules, and has failed to submit the documents, having been directed to do so in a request for further information by the Tribunal in terms of Rule 5(3) of the Rules, the Legal Member determines that the application cannot be accepted. 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  
13 October 2020