

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of Alan Strain, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber)**

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

**Chamber Ref: FTS/HPC/EV/19/0277**

**Re: Flat 3/1, 28 Heathcot Avenue, Drumchpael, Glasgow, G15 8NU("the Property")**

**Parties:**

**Mr Michael Carrol ("the Applicant")**

**Miss Natalie Siller ("the Respondent")**

**Clydebank Sales and Letting Agents (Applicant's Representative)**

**Tribunal Member:**

**Alan Strain (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should not be accepted in accordance with Rule 5 (4) of the Procedural Rules.**

**Background**

1. The application was received by the Tribunal under Rule 109 on 28 January 2019. The grounds for possession/eviction were stated to be grounds 11 and 12. The following documents were enclosed with the application:

- (i) A signed Tenancy Agreement in respect of the Property;
- (ii) AT6 dated 22 January 2019;
- (iii) Notice to Quit dated 22 January 2019;
- (iv) Section 33 Notice dated 22 January 2019; and
- (v) Section 11 Notice.

2. On 13 February 2019 the Application was considered by the Tribunal and a request for further information issued. The Applicant's agents were requested to provide inter alia the following:

- (i) As the Property was in joint names and the owners were joint landlords confirmation as to the position of the other landlord;
- (ii) A signed mandate by the Applicant authorising the representatives to act; and
- (iii) Submissions as to why no Notice to Leave had been provided.

The Applicant's agents were requested to provide the information by 27 February 2019 failing which the application may not be accepted.

3. The Applicant's agents did not respond. The Tribunal considered the Application again on 19 March 2019 and gave the Applicant until 2 April 2019 to respond. No response was received.

### **Reasons for Decision**

4. The Tribunal considered the application in terms of Rule 5 of the Chamber Procedural Rules. That Rule provides:-

#### ***"Requirements for making an application***

##### **5.—**

*(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 lodgement 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 required manner for lodgement.*

*(4) The application is not accepted where the outstanding documents requested under paragraph (3) are not received within such reasonable period from the date of request as the Chamber President considers appropriate."*

5. An application under Rule 109 requires specified documentation to be lodged with it:

"Application for an eviction order

• **109.** Where a landlord makes an application under section 51(1) (for an eviction order) of the 2016 Act, the application must—

(a)state—

(i)the name, address and registration number (if any) of the landlord;

(ii)the name, address and profession of any representative of the landlord;

(iii)the name and address of the tenant; and

(iv)the ground or grounds for eviction;

(b)be accompanied by—

(i)evidence showing that the eviction ground or grounds 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; and

(c)be signed and dated by the landlord or a representative of the landlord.”

8. In this Application the Applicant’s agents have been requested to provide information and documentation necessary for acceptance of the application. They were given a reasonable period of time to do so and have not done so. In accordance with Rule 5(4) of the Tribunal Procedure Rules the Tribunal considers that the Application should not be accepted.

### **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal 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.**

# A Strain

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Legal Member/Chair

*JD April 2019.*  
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Date