



**DECISION AND STATEMENT OF REASONS OF MARTIN J.MCALLISTER  
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 Procedural Rules")

in connection with

2 Gowanbrae, Lenzie, Glasgow, G66 4BA ("the Property")

**Case Reference:** FTS/HPC/EV/22/3757

Peter Jackson ("**the Applicant**")

Coda Eatates ("**the Applicant's Representative**")

Stephen Kay ("**the Respondent**")

1. An application, dated 5<sup>th</sup> October 2022, was received from the Applicant's Representative by the First –tier Tribunal for Scotland, Housing and Property Chamber (the FTT). The application was made under Rule 109 of the Procedure Rules.
2. On 10<sup>th</sup> November 2022, the FTT wrote to the Applicant's Representative on a number of matters and sought a response.
  - 2.1 Clarification on why the Applicant had right and title to make the application since he was neither the owner of the Property or the registered landlord.
  - 2.2 There was no evidence of service of the Notice to Leave.
  - 2.3 Clarification was sought with regard to the notice period of ninety five days which was on the notice to leave.

- 2.4 Clarification on the grounds for eviction that the Applicant was relying on since those in the notice to leave differed from those in the application.
- 2.5 The Applicant was asked to provide evidence that the grounds for eviction are met.
- 2.6 The Applicant was asked to provide proof of service of the Section 11 Notice.
- 2.7 The Applicant's Representative was asked to submit a mandate of the Applicant which granted authority to the representative to act on his behalf.
3. The letter to the Applicant's Representative dated 10<sup>th</sup> November 2022 stated that, if a response were not received by 24<sup>th</sup> November 2022, the President may consider rejecting the application.
4. The Applicant's Representative has not responded to the request for further information.

## **DECISION**

5. I considered the application in terms of Rules 5 and 8 of the Procedural Rules.

Rule 5 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 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.*

Rule 8 provides

*"Rejection of application*

*8. —(1) The Chamber President or another member of the First-tier Tribunal under the delegated powers of the Chamber President, must reject an application if –*

*(a) they consider that the application is frivolous or vexatious;*

*(b) the dispute to which the application relates has been resolved;*

*(c) they have good reason to believe that it would not be appropriate to accept the application;*

*(d) they consider that the application is being made for a purpose other than a purpose specified in the application; or*

*(e) the applicant has previously made an identical or substantially similar application and in the opinion of the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, there has been no significant change in any material considerations since the identical or substantially similar application was determined.*

*(2) Where the Chamber President, or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, makes a decision under paragraph (1) to reject an application the First-tier Tribunal must notify the applicant and the notification must state the reason for the decision."*

**6. The Tribunal determined that the application should be rejected in terms of Rule 8 (c) of the Rules of Procedure as the Tribunal has good reason to believe that it would not be appropriate to accept the application.**

## **REASONS FOR DECISION**

7. The Applicant's Representative was asked for further information.
8. The information requested was essential for the Tribunal to make a decision as to whether or not to admit the application for determination
9. The Applicant had failed to provide information having been required to do so in terms of Rule 5 (3).

## **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.**

**Martin McAllister**

Martin J. McAllister,  
Legal Member  
First-tier Tribunal  
21<sup>st</sup> December 2022