

Housing and Property Chamber
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF MELANIE BARBOUR, 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

Case reference FTS/HPC/EV/21/2729

Parties

Hugh Allan Properties Ltd (Applicant)

Mr Marian Cosmin Paraschiva (Respondent)

17 A Telford Street, Inverness, IV3 5JZ (House)

1. On 5 November 2021, an application was received from the applicant. The application was made under Rule 109 of the Procedural Rules, being an application to recover possession of a private residential tenancy.
2. By letters from the Tribunal dated 22 November and 20 December both 2021 and 20 January 2022, the Tribunal requested further information including :-
 - You have indicated that the tenancy started after 1 December 2017 but stated that the eviction ground is Rule 65, ground 11 – delay in paying rent. Please note that this is not a relevant ground for private residential tenancies. The rent arrears ground is ground 12 of Schedule 3 of the Private Housing Tenancies (Scotland) Act 2016. Please provide an amended application form.
 - a copy of the tenancy agreement.
 - a copy of a Notice to leave which has been given to the respondent.
 - a copy of the section 11 notice sent to the local authority

- a rent statement showing rent due, rent paid and the running total outstanding for the relevant period.
3. No response has been forthcoming from the applicant's agent.

DECISION

4. I considered the application in terms of Rule 8 of the Procedural Rules. That Rule 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."

5. After consideration of the application, the attachments and correspondence from the applicant, I consider that the application should be rejected on the basis that I have good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

REASONS FOR DECISION

6. The Tribunal had requested further information to support this application from the applicant. The applicant has not provided the information requested.
7. The applicant's failure to provide the requested information to support the application gives me good reason to believe that it would not be appropriate to accept the application in circumstances where the applicant is apparently unable to do so in order to progress this application under rule 109.
8. Accordingly, for this reason, the application must be rejected upon the basis that I have good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

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.

Melanie Barbour

Legal Member

2022