

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/22/0073

Parties

Ms Anne Hodge (Applicant)

Miss Emily McDicken (Respondent)

5 Shields Road, Newmilns, KA16 9HN (House)

1. On 21 January 2022, an application was received from the applicant. The application was made under Rule 109 of the Procedural Rules, being an application for eviction of a private residential tenancy.
2. By letter from the Tribunal dated 7 February 2022 the Tribunal requested further information including :-
 - A current address for the Respondent; or service by advertisement application.
 - The application form must specify the eviction grounds which the application is based on. Please provide an amended form with the relevant grounds.
 - Please confirm when and how the Notice to leave was issued to the Respondent, and provide evidence of this.

- It also appears that you have only given 28 days notice this required to be considered and addressed.
 - Please provide a copy of the section 11 notice given to the Local authority, with evidence that it was sent to them.
 - Please provide evidence for all of the eviction grounds.
 - If relying on ground 12, please provide evidence of compliance with the Rent Arrears Pre Action Requirements (Coronavirus) (Scotland) Regulations 2020." Case action sheet attached
3. The applicant responded to advise that they wished to withdraw the application, but have not made this withdrawal request in writing. No other response has been forthcoming from the applicant.

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 either 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. It is also noted that the applicant appears to want to withdraw this application but has failed to confirm this matter in writing.
8. Accordingly, for these reasons, 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
10 March 2022