

Housing and Property Chamber
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF JAMES BAULD, 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

11 Ladeside Gardens , Kilbirnie, KA25 7EA ("the Property")

Case Reference: FTS/HPC/CV/19/1303

**Denbrae Limited, represented by Mullberry Homes Limited Legal Department ("the Applicant")
Mr Anthony Martin Lavelle ("the Respondent")**

1. The application was made under Rule 109 of the Procedural Rules being an application for an eviction order in connection with a private residential tenancy. The application was accompanied by supporting documentation and further documentation, including a rent statement, was provided following a request made by the tribunal on 17 May 2019.
2. By way of letter and email dated 13 June 2019, a request for further information was sent to the Applicant. Proof of service of the Notice to Leave was requested together with a copy of the section 11 form served on the relevant local authority..
3. No response was received from the Applicant to the request dated 13 June 2019. This request also advised that the application may be rejected should the information not be provided.

DECISION

4. The circumstances in which an application is to be rejected are governed by Rule 8 of the Chamber 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 further information referred to and correspondence from the Applicant's agent, the Legal Member considers that the application should be rejected on the basis 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. A request was made for further information from the Applicant. This request was necessary to allow the application to proceed. The information requested was essential to allow further progress of the application. In the absence of any response by the Applicant, it would not be appropriate to accept the application.

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.

Mr James Bauld

Mr James Bauld

Legal Member

12 July 2019