



**DECISION AND STATEMENT OF REASONS OF JOSEPHINE BONNAR,
LEGAL MEMBER OF THE FIRST-TIER TRIBUNAL WITH DELEGATED
POWERS OF THE CHAMBER PRESIDENT**

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

in connection with

30 Canal Street, Saltcoats, Ayrshire, KA21 5HZ ("the property")

Case Reference: FTS/HPC/EV/20/1345

**Alex Howie, Elizabeth Howie 71 Argyle Road, Saltcoats, Ayrshire, KA21 5NE
("the Applicants")**

Marie Cain, 30 Canal Street, Saltcoats, Ayrshire, KA21 5HZ ("the Respondent")

1. By application received on 23 March 2020 the Applicants seek an order for possession of the property in terms of Rule 65 of the Rules and Section 18 Housing (Scotland) Act 1988. The ground for possession stated in the application is ground 1, that the Applicants intend to live at the property. A letter to the Respondent was lodged with the application which states "due to unforeseen circumstances we have to give you two months notice from today 21.1.2020 on your lease".
2. The Tribunal issued a letter to the Applicant requesting further information. The Applicant was required to submit a copy of the tenancy agreement, a copy of the AT6 Notice given to the Respondent, and a copy of the Notice in terms of Section 11 Homelessness etc (Scotland) Act 2003, sent to the Local Authority. The Applicant was also asked to provide details of the service of the Notices on the Respondent and clarify the position regarding the letter to the

Respondent as it did not appear to be a valid Notice to Quit. In response the Applicants provided a further copy of the letter which had been submitted with the application, with a note from the Respondent written at the bottom of the letter acknowledging receipt of same. A further document which appeared to be part of an AT5 Notice and part of an AT6 was also submitted. Lastly, a letter from the Applicants confirmed that they had hand delivered the various documents to the Respondent.

DECISION

3. The Legal Member considered the application in terms of Rule 5 of the Chamber Procedural Rules. That Rule 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 lodgment 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 requirement manner for lodgment. “

- 4. After consideration of the application, the supporting documentation and correspondence from the Applicant, the Legal Member considers that the application should be rejected on the basis that the Applicant has failed**

to comply with Rule 5.

Reasons for Decision

5. The Applicant submitted an application for an order for possession in in terms of Rule 65 of the Procedural Rules. This Rule states that the application must “(b) be accompanied by – (i) a copy of the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the landlord can give; (ii) a copy of the Notice served on the tenant by the landlord of intention to raise proceedings for possession of a house let on an assured tenancy, (iii) a copy of the notice to quit served by the ;landlord on the tenant (if applicable) and (iv) evidence as the applicant has that the possession ground or grounds has been met and (v) a copy of the notice given to the local authority under section 11 of the Homelessness etc (Scotland) Act 2003.” The Applicants failed to submit any documents with the application, except for a letter which purports to be a Notice to Quit. Some documents were submitted, in response to a request from the Tribunal. However, the Applicants have still failed to provide a copy of the tenancy agreement or any information about same, a complete AT6 Notice, evidence that the ground for possession has been established and the Section 11 Notice to the Local Authority. Furthermore, the letter lodged which purports to be Notice to Quit does not comply with the Assured Tenancies (Notices to Quit Prescribed Information) (Scotland) Regulations 1988.
6. As the Applicant has failed to provide the documents required in terms of Rule 65 of the Rules and has failed to submit the documents, having been directed to do so in a request for further information by the Tribunal in terms of Rule 5(3) of the Rules, the Legal Member determines that the application cannot be accepted. The application is rejected on that basis.

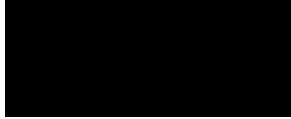
What you should do now

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.



Josephine Bonnar
Legal Member
28 July 2020