

Housing and Property Chamber
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF ALISON KELLY, 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 Rules")

in connection with

499D Gorgie Road, Edinburgh, EH11 3AJ

Case Reference: FTS/HPC/EV/19/3562

Ms Jill Davidson ("the Applicant")

Ms Michelle Ferguson ("the Respondent")

The Application was lodged under Rule 109 of the Chamber Procedural Rules on 6th November 2019, being an application by a private landlord for possession on termination of a Private Residential Tenancy. The following documents were enclosed with the Application:

- (i) Copy Tenancy Agreement
- (ii) Notice To leave
- (iii) Bank Statements

The Notice To Leave is dated 4th November 2019, and states that an Application cannot be lodged with the Tribunal before 5th December 2019. The Application is therefor premature and cannot be accepted.

DECISION

I considered the application in terms of 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. "

- 2 After consideration of the application I consider that it should be rejected on the basis that it is not appropriate to accept it in terms of Rule 8(1) (c) of the Procedural Rules.

REASONS FOR DECISION

The Notice To Leave is dated 4th November 2019, and states that an Application cannot be lodged with the Tribunal before 5th December 2019. The Application is therefor premature and cannot be accepted.

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.

Alison Kelly

Miss Alison Kelly
Legal Member
25th November 2019

