



**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**

**52 Alloa Road, Carron, Falkirk ("the Property")**

**Case Reference: FTS/HPC/EV/20/1791**

**Ewan McMorran, Whitewells, 2 Carronvale Road, Larbert ("the Applicant")**

**Sandra Agnarsdottir, 52 Alloa Road, Falkirk ("the Respondent")**

1. By application received on 24 August 2020, the Applicant seeks an eviction order in terms of Rule 109 of the Rules and Section 51 Private Housing (Tenancies) (Scotland) Act 2016. The eviction ground stated in the application form is rent arrears, although this is wrongly stated to be ground 8 rather than ground 12. A Notice to leave dated 15 July 2020 was submitted with the application. The date specified in Part 4 of the Notice is 18 August 2020.
2. On 7 September 2020, the Tribunal issued a letter to the Applicant which required the Applicant to provide evidence of service of the Notice to leave, a copy of the Notice to the Local authority in terms of Section 11 Homelessness etc (Scotland) Act 2003 and evidence to support the eviction ground. The Applicant was also asked to clarify the basis upon which the application is made, as he does not own the property. The letter also advised that Applicant that the Notice to Leave submitted did not comply with the Coronavirus (Scotland) Act 2020 which amended the notice period for ground 12 to 6

months. The Applicant was asked to confirm whether they wished to withdraw the application and re-submit it after the expiry of the relevant period or ask the Tribunal to allow the application to be entertained although made in breach of section 54 of the 2016 Act. The Applicant was directed to provide a response by 21 September 2020, or the application may be rejected. No response was received. On 13 October 2020 a further letter was issued directing the Applicant to provide a response to the previous letter by 27 October 2020, or the application may be rejected. No response has been received.

## **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 eviction order in terms of Rule 109 of the Procedural Rules. This Rule states that the application must – (a) state – (i) the name, address and registration number (if any) of the landlord;” and “(b) be accompanied by – (i) evidence showing that the eviction ground has been met; and (iii) a copy of the Notice given to the local authority as required under section 56(1) of the 2016 Act”. The Applicant has failed to provide evidence of the eviction ground. He has also failed to state the name and address of the landlord and has not submitted a copy of the notice to the local authority as required by Section 56(1) of the 2016 Act. On 7 September and 13 October 2020 the Tribunal wrote to the Applicant, directing the Applicant to provide this information and documentation. The Applicant was also required to advise the Tribunal if they wished to withdraw and re-submit the application after the correct notice period had elapsed, or seek to have the Tribunal entertain the application in breach of section 54 of the 2016 Act. The Applicant has failed to respond or provide the required information or documents.
6. The Applicant has failed to provide information and documents required by Rule 109 of the Rules. The Applicant has also failed to provide information and documentation, 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 therefore determines that the application cannot be accepted. The application is rejected on that basis. .

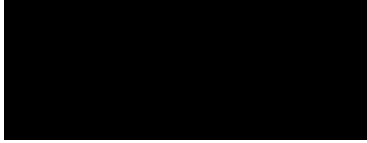
### **What you should do now**

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  
16 November 2020