



**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**

**Flat 3/1, Room 1, 105 Allison Street, Glasgow ("the property")**

**Case Reference: FTS/HPC/CV/20/0273**

**Chatterpal Singh, Gurminder Singh, 65 Peasehill Gait, Rosyth, Dunfermline  
("the Applicants")**

**Abdela Ali, Flat 3/1, Room 1, 105 Allison Street, Glasgow ("the Respondent")**

1. By application received on 24 January 2020 the Applicant seeks an order for possession of the property in terms of Rule 66 of the Rules and Section 18 Housing (Scotland) Act 1988. The grounds for possession stated in the application are grounds 8, 10, 11 and 13. A copy tenancy agreement, Notice to Quit and AT6 Notice were lodged with the application.
2. On 28 January 2020 the Tribunal issued a letter to the Applicants advising that they had to submit a copy Section 33 Notice and a copy of the Section 11 notice to the Local authority. No response was received. On 18 February 2020 a further letter was issued to the Applicant. The Letter indicated that application had been considered by a Legal Member of the Tribunal. The Legal Member had noted that the application appeared to have been lodged under the wrong rule and that the Applicant should confirm that he wished to proceed under Rule 65, since an AT6 had been lodged. The Applicant was also advised that the application could only

proceed if he submitted a copy of the section 11 Notice sent to the Local Authority and evidence in relation to the grounds for possession. In addition the letter directed the Applicants to provide evidence in relation to service of the Notices on the Respondent. No response was received. A further copy of the letter was issued to the Applicant on 22 April 2020. The Applicants were directed to provide a response to the letter failing which the application may be rejected. No response was 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 order for possession in in terms of Rule 66 of the Procedural Rules. From the information and documents lodged it is evident that he intended to proceed under Rule 65. 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 Applicant failed to submit evidence in relation to the grounds for possession and a copy of the Section 11 Notice. The Tribunal has on three occasions written to the Applicant, directing the Applicant to provide the documents which are required. No response has been received.
  
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.

**J. B**

Josephine Bonnar  
Legal Member  
28 July 2020