



**DECISION AND STATEMENT OF REASONS OF MARTIN J.MCALLISTER
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
122B Queensbury Street, Dumfries ("the Property")

Case Reference: FTS/HPC/EV/22/1658

Executor of Douglas Athwal ("**the Applicant**")

Sandra Thom Properties ("**the Applicant's Representative**")

James Livingstone ("**the Respondent**")

1. An application, dated 22nd May 2022, was received from the Applicant's Representative by the First –tier Tribunal for Scotland, Housing and Property Chamber ("the FTT"). It was not clear under which rule the application was made.
2. On 16th June 2022 the FTT wrote to the Applicant's Representative on a number of matters and sought a response:
 - 2.1 Clarification was sought on what the application was for.
 - 2.2 The Applicant's Representative was asked to provide the correct name of the applicant.
 - 2.3 The Applicant's Representative was asked to confirm the status of the applicant.

- 2.4 A mandate of the applicant was requested.
- 2.5 A rent statement was requested.
- 2.6 A copy of the Notice to Leave was requested.
- 2.7 A copy of the Section 11 notification to the local authority was requested together with proof of delivery.
- 2.8 The Applicant's Representative was asked for information on the Applicant's engagement with the Rent Arrears Pre Action Requirements Regulations.
3. On 25th July 2022 the FTT sent a reminder to the Applicant's Representative since no response had been received to the letter of 16th June 2022.
4. On 14th September 2022 the FTT sent a reminder to the Applicant's Representative since no response had been received to the letters of 16th June 2022 and 25th July 2022.
5. In the letters sent to the Applicant's Representative by the FTT intimation had been given that, in the absence of information being provided, the President may consider rejecting the application.

DECISION

6. I considered the application in terms of Rules 5 and 8 of the Procedural Rules.

Rule 5 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 lodgement 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 required manner for lodgement.

Rule 8 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."

7. After consideration of the application, the attachments and correspondence

from the Applicant, I consider that the application should be rejected in terms of Rule 8 (c) of the Rules of Procedure on the basis as the Tribunal has good reason to believe that it would not be appropriate to accept the application.

REASONS FOR DECISION

8. The Applicant's Representative was asked for further information and failed to provide it despite having been written to on three occasions.
9. The information requested was essential for the Tribunal to make a decision as to whether or not to admit the application for determination.
10. The Applicant had failed to provide information having been required to do so in terms of Rule 5 (3).

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.

Martin McAllister

Martin J. McAllister,
Legal Member
First-tier Tribunal
17th October 2022