



**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

137 Troon Avenue, East Kilbride, G78 8TL ("the Property")

Case Reference: FTS/HPC/EV/22/1987

Ann Newman ("**the Applicant**")

Newman Properties ("**the Applicant's Representative**")

Tracy McDonald Dunn ("**the Respondent**")

1. An application, dated 23RD June 2022, was received from the Applicant's Representative by the First –tier Tribunal for Scotland, Housing and Property Chamber (the FTT). The application was made under Rule 65 of the Rules of Procedure.
2. The Application stated that recovery of the Property was sought because of antisocial behavior of the Respondent under Ground 15 of Part II OF Schedule 5 of the Housing (Scotland) Act 1988 ("the 1988 Act.").
3. On 11th July 2022 the FTT wrote to the Applicant's Representative on a number of matters and sought a response.

3.1 No notice had been served on a joint tenant and the Applicant's Representative was asked on what basis documentation produced by it evidenced that he was no longer a tenant.

3.2 No Notice to Quit had been served as required by Section 18(6) of the 1988 Act.

3.3 The Form AT6 only gave fourteen days' notice, not twenty eight days' notice, and did not set out the terms of Ground 15 in their entirety and did not give specification of the antisocial behavior. The Applicant's Representative was asked why it considered the AT6 Form to be valid.

4. On 12th July 2022 the Applicant's representative wrote in the following terms
"... not aware that I had to give a detailed police report, can this be deferred until the police provide me with one. I have no idea if it will be within 14 days or not."

DECISION

5. 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."

- 6. 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

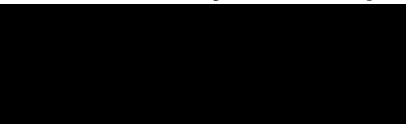
7. The Applicant's Representative was asked for further information. It was not asked to provide a copy of a police report.
8. The information requested was essential for the Tribunal to make a decision as to whether or not to admit the application for determination. On the face of it, no notice had been given to all tenants, no Notice to Quit had been served in terms of Section 18(6) of the 1988 Act, the Form AT6 was not valid in terms of Section 19 of the 1988 Act and the Respondent had not been given adequate notice of the ground for possession of the Property.
9. 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 J. McAllister,
Legal Member
First-tier Tribunal
22nd August 2022