

Housing and Property Chamber
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF MELANIE BARBOUR, 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

Case reference FTS/HPC/EV/21/2929

Parties

Mr Arthur Czochra, Ms Beata Czochra (Applicant)

Mr Michal Geisler, Ms Ewa Geisler (Respondent)

27 Poplar Street, Maxfield, EH22 5LW (House)

1. On 26 November 2021, an application was received from the applicant. The application was made under Rule 109 of the Procedural Rules, being an application for eviction of a private residential tenancy.
2. By letters from the Tribunal dated 9 December 2021, 10 January 2022 and 9 February 2022 the Tribunal requested further information. The applicant responded in part to the further information requests, however as at 10 March 2022 the following information was still outstanding:-
 - You have confirmed that you wish to proceed on both grounds but you have not provided a Notice to leave for ground 12. Please provide a valid notice to leave for ground 12 with evidence that it was served on the Respondent.

- Please provide evidence that the Notice to leave you have submitted was served on the Respondent.
- Please note that the notice you have submitted provided for 3 months notice on 15 February 2021. The notice period expired on 18 May 2021. An application must be submitted within 6 months of the expiry of the period of notice. However, your application was not lodged until 23 November. It therefore appears that the application cannot be accepted. Please clarify why you think that the application can proceed.

The applicant has failed to respond to the last further information request and the foregoing issues remain outstanding.

DECISION

3. I considered the application in terms of Rule 8 of the 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."

4. After consideration of the application, the attachments and correspondence from the applicant, I consider that the application should be rejected on the basis that I have good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

REASONS FOR DECISION

5. The Tribunal had requested further information to support this application from the applicant. The applicant has not provided the information requested.
6. The applicant's failure to provide the requested information to support the application gives me good reason to believe that it would not be appropriate to accept the application in circumstances where the applicant is apparently unable to do so in order to progress this application under rule 109.
7. Accordingly, for this reason the application must be rejected upon the basis that I have good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

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.

M. B

Melanie Barbour
Legal Member
2022