



**DECISION AND STATEMENT OF REASONS OF NICOLA WEIR, 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 Procedure Rules")**

**Case Reference: FTS/HPC/CV/23/1335**

**47A Port Buchan, Broxburn, EH52 6HN ("the Property")**

**Marc Menard ("the Applicant")**

**Neil McFarlene ("the Respondent")**

1. The Applicant lodged an application under Rule 111 (civil proceedings in relation to a Private Residential Tenancy in terms Section 71 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act") on 24 April 2023.
2. Several requests for further clarification and information have since been issued by the Tribunal to the Applicant by email on 19 May 2023, 3 August 2023 and 28 September 2023. In particular, the Tribunal required clarification in respect of the application and order(s) sought, as this application sought to seek an eviction order as well as a payment order. It was explained to the Applicant that a separate application would require to be submitted in respect of the eviction order sought and that the current application required to be amended so that it was in correct form. Specification of the sum sought from the Respondent was required as well as a rent statement evidencing the rent arrears referred to. However, no responses have been received from the Applicant. The last email from the Tribunal of 28 September 2023 was stated to be a final reminder and requested a response by 12 October 2023, failing which the application would be rejected. That time limit was not complied with and nothing further has been received.

**Decision**

3. Following further consideration of the application the Legal Member considers that the application should be rejected in terms of Rule 8(1)(c) which states that an application must be rejected if the Tribunal has "good reason to believe that

it would not be appropriate to accept the application.”

### **Reasons for Decision**

4. Rule 5 of the Procedure Rules states that 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...” the relevant Rule. In terms of Rules 5(2) and (3) the Chamber President or a Member with delegated powers must assess whether the “mandatory requirements for lodgement have been met” and “may request further documents”.
5. The Applicant has failed to lodge documents required in terms of Rule 111, These requirements have been explained to the Applicant who has been given several opportunities to provide the documentation required or clarify the position. However he has failed to do so.
6. The Applicant has failed to comply with Rules 5 and 111 of the Procedure Rules. In the circumstances, the Legal Member is satisfied that there is good reason to believe that it would not be appropriate to accept the application. 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.

10 November 2023