



**Decision with Statement of Reasons of Alan Strain, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules")**

**Chamber Ref: FTS/HPC/EV/23/2785**

**Re: 17 Belford Mews, Edinburgh, EH4 3BT (Property)**

**Parties**

**Ms Corinne-Alexandrine Bobin (Applicant)**

**Haddy Njai (Respondent)**

**Tribunal Member:**

**Alan Strain (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be rejected on the basis that it would not be appropriate to accept the application in terms of Rule 8(1)(c).**

**Background**

1. The application was received by the Tribunal under Rule 109 on 15 August 2023.
2. The application was considered by the Tribunal and further information was requested by emails of 15 November 2023 and 18 September 2023 as follows:

"I refer to your recent application which has been referred to the Chamber President for consideration. The in-house convener has reviewed the eviction application. To enable it to proceed please respond to the following within 14 days: 1. Please give us your residential address as a care of address is not sufficient. 2. We wrote to you on 17 August 2023 with a further information request and you have not responded. Please let us have the notice sent to the local authority as required by section 56 of the Private Housing (Tenancies)(Scotland) Act 2016. 3. Please provide evidence that the eviction ground is met. You have told us that you wish to move into the property and that you need

to do this to alleviate financial hardship. We undernote the type of information which may be of assistance in establishing financial hardship for you to consider. We may make a formal direction for this if your application is accepted. 4. Please let us have proof of service of the notice to leave. You have given us screenshots but we need to see the email sending the notice to leave so we can check the email address and the date it was sent.”

And on 15 November 2023:

“Your further information has been assessed by a Legal Member of the Tribunal with the delegated authority of the Chamber President. The Legal Member has requested a response to our repeated calls for further information. We require the following: (i) Your residential address. (ii) A copy of the section 11 notice sent to the local authority, together with evidence of service upon the local authority. You may find a template section 11 notice on the local authority website. The application cannot be accepted without this. (iii) Evidence that the eviction ground is met. You have told us that you wish to move into the property and that you need to do this to alleviate financial hardship. We provided an indication of the type of evidence required in our email of 18th September 2023. While you may not wish to provide all the information listed in that email at this stage, you must provide some evidence of financial hardship to allow the application to be accepted. The legislation states the following as examples of the type of information that might be submitted: Evidence tending to show that the landlord has the intention ... includes (for example)— (a) a letter of advice from an approved money advisor or a local authority debt advice service, (b) a letter of advice from an independent financial advisor, (c) a letter of advice from a chartered accountant, (d) an affidavit stating that the landlord has that intention (iv) Please let us have proof of service of the notice to leave. You have given us screenshots but we need to see the email sending the notice to leave, if it is available, so we can check the email address and the date it was sent. Please reply to this office with the necessary information by 29 November 2023. If we do not hear from you within this time, the President may decide to reject the application.”

No response was received to the request of 15 November 2023.

### **Reasons for Decision**

3. The Tribunal considered the application in terms of Rule 8 of the Chamber 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;·*
- (c) they have good reason to believe that it would not be appropriate to accept the application;*

*(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. Rule 109 of the Tribunal Procedure Rules provides:

#### **Application for an eviction order**

109. Where a landlord makes an application under section 51(1) (for an eviction order) of the 2016 Act, the application must—

(a) state—

(i) the name, address and registration number (if any) of the landlord;

(ii) the name, address and profession of any representative of the landlord;

(iii) the name and address of the tenant (if known); and

(iv) the ground or grounds for eviction;

(b) be accompanied by—

(i) evidence showing that the eviction ground or grounds has been met;

(ii) a copy of the notice to leave given to the tenant as required under section 52(3) of the 2016 Act; and

(iii) a copy of the notice given to the local authority as required under section 56(1) of the 2016 Act; and

(iv) a copy of Form BB (notice to the occupier) under schedule 6 of the Conveyancing and Feudal Reform (Scotland) Act 1970 (if applicable), and

(c) be signed and dated by the landlord or a representative of the landlord.

The Applicant has failed to provide necessary information, specifically evidence of the notice given to the local authority as required under section 56(1) of the 2016 Act. The Tribunal could not grant the order sought without this information.

5. The Tribunal accordingly consider that there is good reason why the application should not be accepted. The application is accordingly rejected.

### **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal 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.**

# A Strain

28 December 2023

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Legal Member/Chair

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Date

