



**Decision with Statement of Reasons of Helen Forbes, 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/23/3072**

**Parties:**

**Laura MacNicol ("the Applicant")**

**Damian Browne ("the Respondent")**

**Tribunal Member:**

**Ms H Forbes (Legal Member)**

**Decision**

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

**Background**

1. The application was made under Rule 66 and was received on 1<sup>st</sup> September 2023. The Applicant was seeking an order for possession.
2. The Tribunal considered the application and wrote to the Applicant requesting the following information on 29<sup>th</sup> September 2023:
  1. The application requires to be amended to Rule 109. Please provide an amended application form. This should also refer to the correct ground. Landlord intends to live in the let property is ground 4, not 1.
  2. The section 33 and AT6 notices are not relevant. In any event, these appear to be blank.
  3. The Notice to leave appears to be invalid as there is no date specified in Part 4 as the earliest date that proceedings can be raised. Please provide a valid Notice to leave with evidence of service on the Respondent. This could be a post office certificate of posting and track and trace report or copy of



an email to the Respondent. If you have not served a valid notice to leave you should withdraw the application and re-submit it once you have done so.

4. A section 11 notice with evidence that it has been sent to the Local Authority must be submitted.
5. Evidence in support of the eviction ground must be provided. A signed statement regarding your intentions in relation to the property can be submitted.
6. According to the Register of landlords the property is not registered. Please provide evidence that it has been registered.

Please reply to this office with the necessary information by 13<sup>th</sup> October 2023. If we do not hear from you within this time, the President may decide to reject the application.

3. By email dated 24<sup>th</sup> September 2023, the Applicant stated that the keys to property had been returned. The Applicant was asked to confirm that she wished to withdraw the application. No response or further information was received from the Applicant.
4. The application was considered by a Legal Member on 21<sup>st</sup> December 2023.

### **Reasons for Decision**

5. 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;*

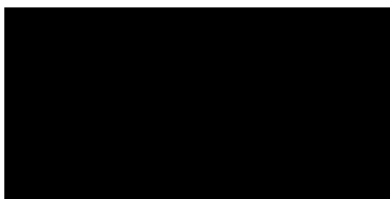
*(2) Where the Chamber President, or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, makes a decision under paragraph ( 1) to reject an application the First-tier Tribunal must notify the applicant and the notification must state the reason for the decision."*



6. The Tribunal has requested further information from the Applicant in order to consider whether or not the application can be accepted. The Applicant has failed to respond to the Tribunal's request for further information and documents. The application cannot be accepted without the further information and documents. There is good reason to believe it would not be appropriate to accept the application.
7. 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.**



21<sup>st</sup> December 2022

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Legal Member/Chair

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Date