



**DECISION AND STATEMENT OF REASONS OF JOSEPHINE BONNAR,
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/EV/23/3118

32 Hollybank Place, Ground Floor Right, Aberdeen ("the Property")

Christopher Mackenzie, Ailsa, Cryals Road, Matfield ("the Applicant")

**Callum Candy, 32 Hollybank Place, Ground Floor Right, Aberdeen ("the
Respondent")**

1. The Applicant seeks an eviction order in terms of Rule 109 of the Procedure Rules and Section 51 of the Private Housing Tenancies (Scotland) Act 2016 ("the 2016 Act").
2. On 2 October 2023, the Tribunal issued a request for further information and documents. The Applicant was directed to provide a copy of the tenancy agreement, a completed section 11 notice with evidence that it had been sent to the Local Authority and evidence in support of the eviction ground. The Applicant was also asked to clarify his title and interest to make the application, as the property is owned by a third party. The Applicant did not respond to the request or to reminders issued on 13 November and 27 December 2023.

Decision

3. After 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

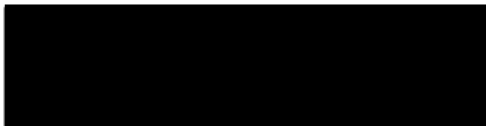
4. Rule 5 of the Procedure Rules states that an application “is held to have been made on the date that it is lodged if, on that date, it is lodged in the manner as set out in rules.....105 to 111, as appropriate”. In terms of Rules 5(2) and (3) the Chamber President or a Member with delegated powers must assess whether the “mandatory requirements for lodgement have been met” and “may request further documents”. Rule 109 requires an Applicant to provide a copy of the section 11 notice and evidence in support of the eviction ground. The Applicant did not provide evidence to support the eviction ground and the section 11 form submitted is incomplete. Furthermore, the Applicant has failed to provide these documents, a copy of the tenancy and evidence of title and interest, in response to a further information request issued in terms of Rule 5(2).
5. As the Applicant has failed to comply with Rules 5 and 109 of the Procedure Rules, 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.



Josephine Bonnar, Legal Member
5 February 2024