



**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/23/3667**

**11 Redshank Avenue, Renfrew ("the Property")**

**Mark McAllister, 10 Gallacher Avenue, Paisley ("the Applicant")**

**Stephen McGarry, 11 Redshank Avenue, Renfrew ("the Respondent")**

1. The Applicant lodged an application for 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"). Part of a Notice to leave was submitted in support of the application.
2. The Tribunal issued a number of requests for further information and documents. The Tribunal asked the Applicant to provide a copy of the tenancy agreement, a copy of the complete notice to leave as Part 4 was missing, evidence of service of the Notice to leave, evidence in support of the eviction grounds and a copy of the section 11 notice sent to the Local Authority. The Applicant responded to the first request and provided a further copy of the incomplete Notice to leave. Thereafter, the Applicant did not respond to the requests for further information although he did make a number of requests by email for an update and a decision on his application.

**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...” 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 application was lodged in terms of Rule 109. This Rule requires an application to be accompanied by evidence that the ground has been met, a notice to leave that has been served on the respondent and a section 11 notice. The Applicant has not provided any evidence to support the eviction grounds or a section 11 notice. Furthermore, as Part 4 is missing from the notice to leave, it does not meet the requirements of section 62 of the 2016 Act. The Applicant has also failed to provide these documents (and a copy of the tenancy agreement) when directed to do so in terms of Rule 5(2) and (3) of the Procedure Rules
6. The Applicant has failed to comply with Rules 5 and 109 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.

J. Bonnar

Josephine Bonnar, Legal Member  
13 March 2024