



**Decision with Statement of Reasons of H 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/23/3941**

**Parties:**

**Unknown ("the Applicant")**

**Accommodate Rural ("the Applicant representative")**

**Sander Tubbergen ("the Respondent")**

**Tribunal Member:**

**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. An application form under Rule 109 was received on 23<sup>rd</sup> November 2023 with a rent statement.
2. A request for further information on the basis that the application was incomplete was made of the Applicant representative by email dated 8<sup>th</sup> November 2023, as follows:

The following further information is required from you before your application can proceed to the Chamber President for consideration:

- a copy of the notice to leave given to the tenant as required under section 52(3) of the 2016 Act;
- evidence of the notice to leave given to the tenant as required under section 52 (3) of the 2016 Act being served by the landlord on the tenant



- a copy of the notice given to the local authority as required under section 56(1) of the 2016 Act
- evidence of the notice given to the local authority as required under section 56 (1) of the 2016 Act being provided to the local authority

No response was received.

3. A Legal Member of the Tribunal considered the application and an email was sent to the Applicant representative requesting the further information on 5<sup>th</sup> February 2024. No response was received.
4. A Legal Member of the Tribunal considered the application and an email was sent to the Applicant representative on 18<sup>th</sup> March 2024 stating the following:
  - Your application is made under rule 109, and further information was requested on that basis. However, it may be the case that you intended to make an application for a payment order under Rule 111, as you state that you are pursuing a previous tenant, and you have headed the covering email 'Claim for rent arrears'. If this is an application under Rule 109, please provide the previously requested documentation. If it is an application for a payment order under Rule 111, please provide a further application form – Form F – and please ensure that you state the exact sum sought at part 5(c).
  - You have not completed the Applicant details. We must have those details. The Landlord Register states that the property is registered in the name of Sally Russell. Please confirm the correct Applicant, who is usually the owner and landlord, when you provide the amended application form. We have yet to source the correct Title Deed. There may be further questions when we have this information.
  - We will require a mandate from the Applicant authorising you to act on their behalf in this application.
  - We will require an address for the Respondent, if they have left the property. If you are unable to provide an address, you may wish to consider an application for Service by Advertisement. Any such application must be accompanied by a report from a tracing agent or sheriff officer.
  - Please provide a copy of the tenancy agreement.

If the Applicant has decided against proceeding with the application, it would be very helpful if you would confirm that you are withdrawing the application.



Please reply to this office with the necessary information by 1 April 2024. If we do not hear from you within this time, the President may decide to reject the application.

No response was received.

5. The application was considered by a Legal Member on 30<sup>th</sup> April 2024.

### Reasons for Decision

6. 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."*

7. The application cannot be accepted without the clarity and further information sought from the Applicant. The basis of the application is not clear. In respect of both Rule 109 and 111, the tenancy agreement, and the names and addresses of both parties must be lodged. In addition, in respect of Rule 109, the Notice to Leave, and section 11 notice must be lodged. This documentation has not been lodged.
8. There is good reason to believe it would not be appropriate to accept the application. 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**

Housing and Property Chamber  
First-tier Tribunal for Scotland

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seek permission to appeal within 30 days of the date the decision was sent to them.



30<sup>th</sup> April 2024

Legal Member/Chair

Date