



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 26 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)**

Chamber Ref: FTS/HPC/RE/24/1584

Re: 132 Lewis Road, Aberdeen, AB16 6TG ("the Property")

Parties:

Susan Park ("the Applicant")

Euan Mackay ("the Respondent")

Tribunal Member: Martin J. McAllister (Legal Member)

**The Tribunal rejects the application by the applicant dated 5 April 2024 which is an application under Section 28 A (1) of the Housing (Scotland) Act 2006 (“the 2006 Act”) and Rule 55 of the Rules.**

**Background**

1. The Applicant submitted an application dated 5 April 2024 for assistance with obtaining access to the Property. Documentation submitted with the application suggested that the Property may have been abandoned by the Respondent.
2. On 11 April 2024, the Applicant was asked to provide evidence of the notification given to the Respondent seeking access and it was pointed out to her that, if the Property had been abandoned, a member of the Tribunal could not provide assistance in terms of Section 28B of the Act because the Respondent would require to be contacted by that member.

3. The request for information was in terms of Rule 5 (3) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”).
4. On 12 April 2024, the Applicant submitted a copy of an email which had been sent to the Respondent on 13 March 2024 and advised that she was not sure if this had been sent to a current email address of the Respondent.
5. The content of the email did not, in itself, constitute the required notification to be given to a tenant.

### **Decision**

6. **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.” The basis of the decision is that the Applicant has failed to comply with Rule 5 and Rule 55 of the Rules and Section 28 A (4) of the 2006 Act.**

### **Reasons**

7. The Legal Member considered the application in terms of Rule 5 and Rule 55 of the Chamber Procedural Rules. Rule 5 provides: - (1) 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 43, 47 to 50, 55, 59, 61, 65 to 70, 72, 75 to 91, 93 to 95, 98 to 101, 103 or 105 to 111, as appropriate. (2) The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged in the required manner by assessing whether all mandatory requirements for lodgment have been met. (3) If it is determined that an application has not been

lodged in the prescribed manner, the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, may request further documents and the application is to be held to be made on the date that the First-tier Tribunal receives the last of any outstanding documents necessary to meet the requirement manner for lodgment. “

8. The Applicant has not complied with the requirements of Rule 55 (b) (ii) of the Rules.

# M McAllister

Martin J. McAllister, Legal Member, 19 April 2024