



**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/23/4484**

**Flat 2/2 100 Glenkirk Drive, Glasgow ("the Property")**

**Mohammed Arshad, Flat 2/2 6 St Andrews Way, Glasgow ("the Applicant")**

**Donna McNaught, Gurpreet Singh, Flat 2/2 100 Glenkirk Drive, Glasgow ("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"). Two Notices to leave were submitted in support of the application.
2. The Tribunal has issued a number of requests for further information in terms of Rule 5(3) of the Procedure Rules. Although the Applicant has responded to these requests, he has failed to provide the information and documents requested. In particular, the Applicant has failed to provide a copy of the tenancy agreement, 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.

**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 a notice to leave that has been given to the Respondent, a copy of the section 11 notice sent to the Local Authority and evidence to support the eviction ground. The Applicant has failed to provide the section 11 notice, evidence that the Notices to leave were served and evidence to support the eviction grounds. The Applicant has also failed to provide a copy of the tenancy agreement, as requested by the Tribunal. The Legal Member also notes that one of the Notices to leave is dated 30 January 2023 and states that an application cannot be made until 1 March 2023. As the application was not submitted until 13 December 2023, this Notice to leave cannot be used as the application was submitted more than 6 months after the expiry of the notice period. Furthermore, the second Notice to leave specifies ground 5. However, the application indicates that the Applicant seeks to rely on ground 4.
  
6. The Applicant has failed to comply with Rules 5 and 109 of the Procedure Rules and Sections 52, 55 and 56 of the 2016 Act. 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  
17 June 2024