



**DECISION AND STATEMENT OF REASONS OF MARTIN J. MCALLISTER,
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 Rules")**

**in connection with
1 Bowmont Forest Sawmill Cottages, Kelso, Roxburghshire, TD5 8EA ("the
Property")**

Case Reference: FTS/HPC/RP/24/2383

Mary Maher ("the Applicant")

Roxburghe Estates ("the Respondent")

1. The Applicant submitted an application to the Tribunal in terms of Section 22 (1) of the Housing (Scotland) Act 2006 ("the 2006 Act") which was received on 23 May 2024. On 10 June 2024, the Tribunal issued a request for further to the Applicant who was asked to provide clarity on the landlord and also to provide sufficient evidence of the Respondent having been notified of the repairs required to the Property. On 2 July 2024 the Tribunal issued a further email and letter directing the Applicant to provide a response to the request. No response has been received to either of the requests for information.

DECISION

2. The Legal Member considered the application in terms of Rule 5 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. “

- 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.” The basis of the decision is that the Applicant has failed to comply with Rules 5 and 48 (b) (ii) of the Tribunal Rules.**

REASONS FOR DECISION

4. In terms of section 22 (1) of the 2006 Act, a tenant may apply to the Tribunal for determination of whether a landlord has failed to comply with the duty to maintain a house to the repairing standard.
5. The Applicant has failed to provide information, having been directed to do so in a request for further information by the Tribunal, in terms of Rule 5(3) of the Rules.
6. The Applicant has failed to provide evidence of her notification to the Respondent of works requiring to be done to the Property. She is obliged to do so in terms of Section 23 (3) of the 2006 Act.

7. The Legal Member therefore determines that the application cannot be accepted. 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.

Martin.J. McAllister

Martin J. McAllister, Legal Member
25 July 2024