



**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/23/4302**

**6 Wellmeadow Green, Newton Mearns ("the Property")**

**Catriona Cameron, 1 Ratho Street, Greenock ("the Applicant")**

**Colin Robertson 6 Wellmeadow Green, Newton Mearns ("the Respondent")**

1. The Applicant seeks 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"). A section 11 notice and Notice to leave were lodged with the application. In response to a request for further information the Applicant lodged a poor copy of a short assured tenancy agreement dated 2013.
2. On a number of occasions, the Tribunal issued requests for further information and documents to the Applicant. The Tribunal noted that, as the agreement is dated 2013, the tenancy cannot be a private residential tenancy and must be either an assured or short assured tenancy under the 1988 Act. If this is the case, the application has been submitted in terms of the wrong Rule and without the required documents. The Applicant was directed to clarify the position and withdraw the application if it was accepted that the wrong Rule and Notices had been used. On 22 May 2024, Applicant notified the Tribunal that they had now issued a Notice to quit and section 33 notice to the tenant. The Applicant was again directed to confirm if the application was to be withdrawn and re-submitted once the notice period under the new notices had expired. No response has been received.

**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 appears to have been submitted under the wrong Rule and with the wrong Notices. The tenancy agreement lodged is a short assured tenancy agreement dated 2013. The application should have been lodged in terms of Rule 65 or 66 and should have been accompanied by a Notice to quit and either a section 33 notice or AT6. The Applicant has been offered the opportunity to address the issue and either lodge the documents required by Rule 66 or 65 or withdraw the application, but has failed to do so.
6. The Applicant has failed to comply with Rules 5 and either Rule 65, 66 or 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

Legal Member

21 July 2024