



**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/CV/23/4303**

**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 order for payment in terms of Rule 111 of the Procedure Rules and Section 71 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 a poor copy of a tenancy agreement dated 2013 was submitted and a rent statement which started in 2023 and showed arrears already accrued of £12000 at that date.
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. The Applicant was directed to clarify the position and amend the application to Rule 70. The Applicant was also asked to provide a rent statement which covered the whole period of the arrears. . On 22 May 2024, the Applicant notified the Tribunal that they had now issued a Notice to quit and section 33 notice to the tenant and would submit a new form F in due course. No further communication 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. The tenancy agreement lodged is a short assured tenancy agreement dated 2013. The application should have been lodged in terms of Rule 70 should have been accompanied by a rent statement which covered the whole period of the arrears. The Applicant has been offered the opportunity to amend the application and lodge the documents required by Rule 70, but has failed to do so.
6. The Applicant has failed to comply with Rules 5 and either Rule 70 or 111 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