



**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/PR/24/0927

139b Union Street, Aberdeen ("the Property")

Linda Leung 139b Union Street, Aberdeen ("the Applicant")

DJ Alexander, Neo House, Riverside Drive, Aberdeen ("the Respondent")

1. The Applicant lodged an application in terms of Rule 110 of the Procedure Rules. No documents were submitted with the application.
2. In response to a request for further information, the Applicant stated that the tenancy had not been terminated and that the Applicant is seeking compensation for herself and the other tenants due to illness and losses caused by the condition of the property.
3. The Tribunal has issued a number of further information requests to the Applicant. The Applicant was directed to confirm whether she wished to amend the application to a different rule, as Rule 110 did not appear to apply. She was also asked to provide a copy of the tenancy agreement, full details of the claim, and amend the application to the correct respondent (as the form names the letting agent and not the landlord). The Applicant lodged a copy of the tenancy agreement but, although she has submitted a number of medical letters relating to another tenant, not named on the application, she has not provided the other documents or information requested. The Applicant wasn't notified that a failure to provide the required information and documents could result in the application being rejected.

Decision

4. 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

5. 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”.
6. The application has been submitted using the wrong Rule. Rule 110 can only be used where a tenant seeks a wrongful termination order. The Applicant has confirmed that the tenancy has not been terminated but has failed or refused to amend the application to the correct rule. It appears that she is seeking compensation for a breach of tenancy which may mean that Rule 111 applies but the Respondent has failed to clarify the position.
7. In terms of Rule 5(3), the Tribunal has requested further information. The Applicant was directed to provide full details of the sum being claimed. In the application for the Applicant refers to the sum of £10 000. However, she has not explained how this sum has been calculated.
8. The Respondent named in the application appears to be the letting agent. However, the application appears to relate to a claim against the landlord for compensation for breach of tenancy. The Applicant has been directed to provide details of the correct Respondent and has refused or failed to do so.
9. The Applicant has failed to comply with Rule 5 of the Procedure Rules and has failed to submit a valid application in terms of a relevant rule. The Legal Member is satisfied that 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.

Josephine Bonnar,

Josephine Bonnar, Legal Member

29 July 2024