



**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/24/2335

26 Duncan Court, Kilmarnock ("the Property")

Duncan Malcolm, 5 Kidsneuk, Irvine ("the Applicant")

Colleen Leydon, 26 Duncan Court, Kilmarnock ("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. Part of a tenancy agreement and a rent statement were lodged with the application.
2. The Tribunal issued a request for further information and documents. The Applicant was directed to provide a complete copy of the agreement and also to explain the basis upon which the Applicant is entitled to make the application as the property is owned by a third party. The Applicant initially requested (and was granted) an extension of time to provide the information and document. A reminder was issued on 17 July 2024 and the Applicant was notified that a failure to provide a response was likely to lead to the application being rejected. 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) of the Procedure Rules 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 rules....105 to 111, as appropriate”. 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”. Rule 111 requires an Applicant to provide a copy of any relevant document.

5. The Applicant has failed to comply with Rules 5 and 111 of the Procedure Rules. The Applicant has failed to demonstrate that the Applicant is entitled to make the application and has not provided a required document, namely a complete copy of the tenancy agreement. The Applicant has also failed to provide this information and document in response to a request from the Tribunal in terms of Rule 5(3). 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