



**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/24/2331

14 Bankhead Avenue, Glasgow ("the Property")

Thomas Jordan, 312 Duke Street, Glasgow ("the Applicant")

Lindsay Moore, 14 Bankhead Avenue, Glasgow ("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"). Various documents were submitted in support of the application.
2. The Tribunal issued a request for further information in terms of Rule 5(3) of the Procedure Rules. The Applicant was directed to provide evidence in support of the eviction ground, as required by Rule 109. The Applicant was also asked to provide clarification of the eviction grounds as the ground stated in the application differed from the Notice to leave. The Tribunal also noted that the email submitted as evidence of service of the notice to leave did not show the date it was sent or the address of the recipient. The Applicant did not respond to the request or to a reminder issued by the Tribunal. The Applicant was notified that as he failed to respond the application might be rejected.

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 was lodged in terms of Rule 109. This Rule requires an application to be accompanied by evidence in support of the eviction ground and a copy of the notice to leave which has been given to the tenant. The Applicant has failed to provide evidence in support of the eviction ground or evidence that the Notice to leave was given to the tenant. The Applicant has also failed to address a discrepancy in relation to the eviction ground which is relied upon.
6. The Applicant has failed to comply with Rules 5 and 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.

Josephine Bonner

Josephine Bonnar, Legal Member
23 September 2024