



**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/24/2463

16 Amprior Road, Glasgow ("the Property")

Craig Callaghan, John Callaghan 16 Amprior Road, Glasgow ("the Applicants")

**Lowther Homes, Wheatley House, 25 Cochrane Street, Glasgow ("the
Respondent")**

1. The Applicant lodged an application in terms of Rule 81 of the Tribunal Procedure Rules. The application was considered by a Legal Member of the Tribunal with delegated powers of the President who noted that the Applicants were actually seeking to challenge a rent increase notice in terms of Rule 108 and sections 24 to 28 of the Private Housing Tenancies (Scotland) Act 2016. A request for further information was issued on 20 June 2024. The Applicants were notified that they had used the wrong Rule and also told that they had to refer the rent increase notice to the Rent Officer in the first instance. They were advised that they could only appeal to the Tribunal once the rent officer had made their determination. The letter also suggested that they take legal advice on the matter.
2. The Tribunal issued further letters to the Applicants but their responses did not address the issues raised. The Applicants later advised the Tribunal that they had missed the time limit for referring the matter to the rent officer.

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. The application was misconceived from the outset as it was submitted in terms of Rule 81 and not in terms of Rule 108. Between June and September 2024, the application was considered In House Conveners on several occasions and requests for further information were issued. The Applicants were notified that they had not followed the correct procedure if they wished to challenge the increase in rent. They were also provided with information about the correct procedure and the relevant provisions of the legislation. However, they failed to withdraw the application or submit evidence that they had referred the matter to the rent officer and received an order.
5. As the Applicants have failed to make a referral to the rent officer, they are not entitled to appeal to the Tribunal in terms of Rule 108 and section 28 of the 2016 Act. The Legal Member is satisfied that the application cannot be accepted and should be 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

5 November 2024