

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rules 8(1) and 26 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Chamber Ref: FTS/HPC/EV/24/4487

29 Orebank Road, Bowhill, Cardenden, Fife, KY5 0JN ("the Property")

Parties:

**Jugdip Powar ("Applicant")
Shenaz Hussain ("Respondent")**

Tribunal Member: Ruth O'Hare (Legal Member)

Decision

The Tribunal rejects the application by the Applicant received by it on 25 September 2024 under Rule 8(1)(c) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules").

Background

- 1 On 25 September 2024 the Applicant submitted an application under Rule 65 of the Rules. The Applicant sought an eviction order under section 18 of the Housing (Scotland) Act 1988. In support of the application the Applicant provided a copy of a tenancy agreement dated 21 February 2016, a Form AT5 notice under section 32 of the Housing (Scotland) Act 1988, and a notice to leave under section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016.
- 2 On 27 September 2024 the Tribunal wrote to the Applicant by email to advise that the application was incomplete. In particular the Tribunal requested evidence that a Form AT6 and notice to quit had been served upon the Respondent, evidence to support the eviction grounds, and a copy of the notice given to the local authority under section 11 of the Homelessness etc (Scotland) Act 2003 together with proof of service.
- 3 The Tribunal received no response from the Applicant. The application was subsequently reviewed by a Legal Member of the Tribunal with delegated powers from the Chamber President. On 11 November 2024 the Tribunal wrote to the Applicant again by email in the following terms:-

“A Legal Member of the Tribunal has now reviewed your application. Before a decision can be made on whether the application can proceed we require you to provide us with the following information:-

- You have selected rule 65 which applies to assured tenancies. However you have provided a notice to leave which applies to private residential tenancies. Please provide a form AT6 and notice to quit that has been sent to the tenant prior to the submission of the application together with proof of delivery (e.g. certificate from sheriff officers or postal receipt and tracking information). If you have not served these notices please consider withdrawing the application and re-submitting once the correct notices have been delivered to the tenant.*
- The property is jointly owned and the joint owner is named as a joint landlord in the tenancy agreement. Please confirm if the joint owner should be added as a joint applicant and provide their contact details. Alternatively please provide a letter of consent from the joint owner authorising you to proceed with the application in your sole name.*
- Please clarify the grounds for possession. Ground 1 is not a valid ground for an assured tenancy. Ground 10 applies where the tenant has given the landlord a notice to quit, and then has failed to leave the property. Please submit an amended Form E with the correct grounds.*
- Please provide a copy of a section 11 notice that has been sent to the local authority together with proof that this has been sent, e.g. covering email or postal receipt.*
- Please provide evidence to support the grounds for possession.*

Please read the above carefully and ensure you provide all of the information requested. Upon receipt of your response we may seek further information from you before a decision is made on whether your application can proceed.

Alternatively please confirm in writing if you wish to withdraw your application at this stage.

You may wish to consult a solicitor or advice agency if you require assistance regarding your application. Residential tenancies can be complex and the Tribunal cannot give you legal advice. We can only advise you what information is required in order for your application to proceed to the next stage.

Please reply to this office with the necessary information by 25 November 2024.”

4 The Tribunal received no further response from the Applicant.

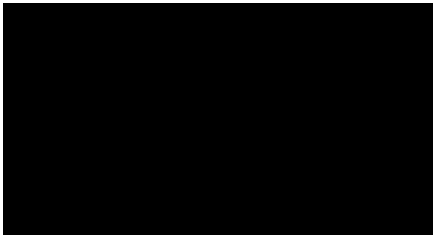
Reasons for Decision

5 The Legal Member considered the application in terms of the Rules and determined 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.” The basis of the decision is that the Applicant has failed to provide the further information requested by the Tribunal under Rule 5(3) of the Rules which is necessary to meet the required manner for lodgement. The Applicant has been asked for the information on two separate occasions. The Applicant has been advised of the potential defects with the application and has failed to satisfy the Tribunal that these can be remedied. Accordingly the Legal Member has concluded that the application cannot be accepted in its current form and must be rejected under Rule 8(1)(c).

NOTE: What you should do now.

If you accept this decision there is no need to reply. If you disagree with this decision you should note the following: A party aggrieved by this 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 seek permission to appeal within 30 days of the date the decision was sent them. Information about the appeal procedure can be forwarded on request.



Ruth O'Hare, Legal Member
30 December 2024