



**Decision with Statement of Reasons of Alan Strain, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules")**

**Chamber Ref: FTS/HPC/EV/24/3477**

## **Parties**

**Mrs Fiona Susanne Dorman, Mr James Donald Dorman (Applicant)**

**Ms Kirsty Margaret Fitzsimmons (Respondent)**

**Landlord Specialist Services Scotland (Applicant's Representative)**

**27/7 Second Avenue, Clydebank, Glasgow, G81 3AB (House)**

**Tribunal Member:**

**Alan Strain (Legal Member)**

## **Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be dismissed on the basis that it would not be appropriate to accept the application in terms of Rule 8(1)(c).**

## **Background**

1. The application was received by the Tribunal under Rule 109 on 30 July 2024.

2. The application was considered by the Tribunal and further information was requested by letters of 4 September 2024 and 6 November 2024. The Applicant was asked to:

*“Before a decision can be made, we need you to provide us with the following: 1. It would appear that the Notice to Leave has not been served by a valid method. The legislation allows for the Notice to be served by personally handing to the tenant, and not by posting through the letterbox. If the Notice was served by another valid method, please provide evidence of the same, although given the date inserted at part 4, it is unlikely that service by email or Recorded Delivery on the date of signing would give the correct period of notice. Please consider withdrawing the application and serving a further Notice, ensuring it is completed and served correctly. You should also be aware of the following: 2. We would expect to see any available evidence of compliance with the pre-action protocol in a ground 12 application.”*

3. The information was not received. The Tribunal informed the Applicant that if the information was not provided by 20 November 2024 the application may be rejected.

### **Reasons for Decision**

4. The Tribunal considered the application in terms of Rule 8 of the Chamber Procedural Rules. That Rule provides:-

#### *"Rejection of application*

*8.-(1) The Chamber President or another member of the First-tier Tribunal under the delegated powers of the Chamber President, must reject an application if-*

*(a) they consider that the application is frivolous or vexatious;·*  
*(c) they have good reason to believe that it would not be appropriate to accept the application;*

*(2) Where the Chamber President, or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, makes a decision under paragraph ( 1) to reject an application the First-tier Tribunal must notify the applicant and the notification must state the reason for the decision."*

5. Rule 109 provides for certain information to be supplied with an application:

#### **Application for an eviction order**

**109.** Where a landlord makes an application under section 51(1) (for an eviction order) of the 2016 Act, the application must—

(a)state—

(i)the name, address and registration number (if any) of the landlord;

(ii)the name, address and profession of any representative of the landlord;

(iii)the name and address of the tenant (if known); and

(iv)the ground or grounds for eviction;

(b)be accompanied by—

(i)evidence showing that the eviction ground or grounds has been met;

(ii)a copy of the notice to leave given to the tenant as required under section 52(3) of the 2016 Act; and

(iii)a copy of the notice given to the local authority as required under section 56(1) of the 2016 Act; and

(iv)a copy of Form BB (notice to the occupier) under schedule 6 of the Conveyancing and Feudal Reform (Scotland) Act 1970 (if applicable), and

(c)be signed and dated by the landlord or a representative of the landlord.

The Applicant has failed to provide necessary information. The Tribunal could not grant the order sought.

6. The Tribunal consider that there is good reason why the application should not be accepted due to the Applicant' failure to provide required information and to co-operate with the Tribunal. The application is accordingly rejected.

### **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal 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.**

Alan Strain

**24 December 2024**

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**Legal Member/Chair**

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**Date**