



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/24/3153

179 Prestwick Road, Prestwick, KA8 8NW ("the Property")

Parties:

**Laura Smith ("Applicant")
Itai Mbabvu ("Respondent")**

Tribunal Member: Ruth O'Hare (Legal Member)

Decision

The Tribunal rejects the application by the Applicant received by it on 10 July 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 10 July 2024 the Applicant submitted an application under Rule 109 of the Rules seeking an eviction order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act"). The application was submitted on the Applicant's behalf by McGoogans (Coatbridge) Ltd.
- 2 On 11 July 2024 the Tribunal emailed McGoogans (Coatbridge) Ltd requesting further information. In particular the Tribunal requested evidence to show that the eviction ground had been met, a copy of the notice to leave and proof of service, and a copy of the notice under section 11 of the Homelessness etc (Scotland) Act 2003 and proof of service.
- 3 The Tribunal received no response. On 22 August 2024 the Tribunal wrote again to McGoogans (Coatbridge) Ltd requesting provision of the information previously requested. The Tribunal advised that in the absence of a response the application would likely be rejected.
- 4 On 22 August 2024 the Tribunal received an email from McGoogans (Coatbridge) Ltd advising that they were no longer managing the property.

- 5 On 30 August 2024 the Tribunal emailed the Applicant directly advising that McGoogans (Coatbridge) Ltd were no longer acting on her behalf. The Tribunal also provided the Applicant with a copy of the Tribunal's request for information dated 22 August 2024.
- 6 No response was received from the Applicant. On 28 October 2024 the Tribunal emailed the Applicant again noting the absence of a response. The Tribunal advised that the Applicant would have a final opportunity to provide the information requested no later than 11 November 2024 failing which the application may be rejected without further notice.
- 7 No further response was received from the Applicant.

Reasons for Decision

- 8 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 information requested by the Tribunal under Rule 5(3) of the Rules which is necessary to meet the required manner for lodgement. 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.

