



**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/24/1947**

**76 Whistleberry Wynd, Hamilton, ML3 0SE ("the Property")**

**Parties:**

**Joseph Sander ("Applicant")  
Candice Wark ("Respondent")**

**Tribunal Member: Ruth O'Hare (Legal Member)**

**Decision**

**The Tribunal rejects the application by the Applicant received by it on 29 April 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 29 April 2024 the Applicant submitted an application under Rule 109 of the Rules.
- 2 On 30 April 2024 the Tribunal wrote to the Applicant to advise that the application was incomplete. The Tribunal requested the Applicant provide evidence of the notice to leave given to the tenant, a copy of the notice given to the local authority and evidence of the notice given to the local authority.
- 3 On 4 May 2024 the Applicant emailed the Tribunal to advise that the Respondent had left the property on 1<sup>st</sup> May 2024 and the application for an eviction order was no longer required. The Applicant confirmed that it was his intention to seek an order for payment in respect of unpaid rent and asked if the documentation provided was sufficient for an order to be granted.
- 4 On 15 May 2024 the Tribunal wrote to the Applicant by email requesting that he provide an amended application form under Rule 111 and a new residential address for the Respondent. The Applicant was advised that if he was unable to provide an address he would have to obtain a trace report from sheriff officers. If

sheriff officers were unable to locate the Respondent he could then apply for service by advertisement on the Tribunal website.

- 5 The Tribunal received no response from the Applicant. On 27 June 2024 the Tribunal wrote again to the Applicant by email requesting that he clarify the rule under which he wished the application to proceed. The Tribunal also requested a current address for the Respondent and a rent statement.
- 6 The Tribunal received no response from the Applicant. A reminder was sent to him by email on 13 August 2024. On 19 August 2024 the Applicant responded to confirm that he wished to amend the application to reflect Rule 111. He did not have a current address for the Respondent but made reference to email correspondence between himself and the Respondent. He advised that a rent statement had already been provided and he was "*frustrated with the lack of attention that my legitimate claim has been subject to*".
- 7 On 18 September 2024 the Tribunal wrote again to the Applicant by email. The Tribunal requested a current address for the Respondent, failing which an application for service by advertisement accompanied by a negative trace report. The Tribunal also asked the Applicant to provide a rent statement, and to amend the application form to ensure the sum claimed was the same as that reflected in the rent statement.
- 8 The Tribunal received no response from the Applicant. A reminder was sent to him on 5 November 2024 asking for the information to be provided within 14 days failing which the application may be rejected by the Chamber President.
- 9 No further response was received from the Applicant.

### **Reasons for Decision**

- 10 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.

**Ruth O'Hare, Legal Member**  
**18 December 2024**