

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/24/4610

13/1 Gladstone Street, Hawick, TD9 0HY ("the Property")

Parties:

**Souter Property Management Ltd ("Applicant")
Square Lettings Management Limited ("Applicant's representative")
Daniel Bailey ("Respondent")**

Tribunal Member: Ruth O'Hare (Legal Member)

Decision

The Tribunal rejects the application by the Applicant received by it on 7 October 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 The Applicant submitted an application to the Tribunal dated 3 October 2024 under Rule 109 of the Rules seeking an eviction order against the Respondent.
- 2 On 7 October 2024 the Tribunal wrote to the Applicant's representative by email to advise that the application was incomplete. The Tribunal requested further information from the Applicant. In particular the Tribunal requested evidence that the notice to leave had been given to the Respondent and a copy of the notice under section 11 of the Homelessness etc (Scotland) Act 2003 with proof of sending to the local authority.
- 3 On 14 October 2024 the Applicant's representative emailed the Tribunal to advise that he was unaware of the requirement to give a section 11 notice to the local authority. He requested further time to do this. On 23 October 2024 the Tribunal responded to the Applicant's representative granting a further seven days for the information to be provided, otherwise the application would be rejected.

- 4 The Tribunal received no further response from the Applicant's representative. Following review of the application by a legal member of the Tribunal with delegated powers of the Chamber President the Tribunal emailed the Applicant's representative again on 21 November 2024. The Tribunal requested the following information:-

"1. Title to the property is held by Souter Property Management Ltd. The landlord per the tenancy agreement is Daniel Parker. Please explain the basis on which Mr Parker entered into the tenancy agreement.

2. Please provide evidence of landlord registration.

3. The notice to leave is undated. Please provide a copy of the dated version.

4. Please provide evidence of service of the notice to leave.

5. Please provide a copy of the section 11 notice and proof of it having been sent to the local authority.

6. Please provide evidence that the ground for eviction is established such as the relevant planning permission or contract with a builder / architect.

7. Please provide a mandate from the applicant confirming your authority to act."

The Applicant's representative was warned again that a failure to provide the information may result in the application being rejected.

- 5 The Tribunal received no further response from the Applicant's representative.


Reasons for Decision

- 6 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. The Applicant has been asked for the information on two occasions. The Applicant has been allowed an extension of time for the information to be provided. The Applicant has been warned that a failure to provide the information may result in the application being rejected. 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
7 January 2025