



**Decision with Statement of Reasons of H Forbes, 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/24/4404**

**Re: Flat 2/2, 20 West Princes Street, Rothesay, PA20 9AF ("the Property")**

**Parties:**

**James Kerr ("the Applicant")**

**Andrew McLachlan ("the Respondent")**

**Tribunal Member:**

**H Forbes (Legal Member)**

**Decision**

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

**Background**

1. The application was received by the Tribunal under Rule 109 on 19<sup>th</sup> September 2024 with associated documents. The Applicant was seeking an eviction order under ground 12.
2. The Applicant did not lodge a section 11 notice as required by section 56 of the Private Housing (Tenancies (Scotland) Act 2016 ("the Act") and Rule 109 of the Procedural Rules. The Applicant did not respond to repeated requests for this document.

**Decision**

3. 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."*

4. On consideration of the above test, the Tribunal considers that this application should be rejected in terms of Rule 8(c) on the basis that there is good reason to believe it would not be appropriate to accept the application.

### **Reasons for Decision**

5. In terms of section 56 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the Act"), a landlord may not make an application to the First-tier Tribunal for an eviction order against a tenant unless the landlord has given notice of the landlord's intention to do so to the local authority in whose area the let property is situated. No evidence of compliance with this provision was lodged.
6. In terms of Rule 109 a copy of the section 56 notice must be lodged with the application. No section 56 notice was lodged with the application.
7. The Tribunal has good reason to believe it would not be appropriate to accept the application. The application is 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.**

Helen Forbes

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**Legal Member/Chair**

**29<sup>th</sup> January 2024**  
**Date**