

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)(c) and 26 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Chamber Ref: FTS/HPC/EV/24/5647

42 Alloway Drive, Kirkintilloch, Glasgow, G66 2NF ("the Property")

Parties:

Colwall Property Ltd ("the Applicant")

McTurk and Muir Lettings Ltd ("the Applicant's representative")

Tribunal Member: Ruth O'Hare, Legal Member with delegated powers from the Chamber President

Decision

The Tribunal rejects the application received by it on 9 December 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 9 December 2024 the Applicant submitted an application under Rule 109 of the Rules and section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The Applicant sought an eviction order under ground 12 of schedule 3 of the 2016 Act, citing rent arrears as the ground for possession. The application was submitted by the Applicant's representative on behalf of the Applicant.
- 2 Following a review of the application by a Legal Member with delegated powers from the Chamber President, the Tribunal wrote to the Applicant's representative on 10 January 2025 by email in the following terms:-

"Please provide evidence that the section 11 notice was sent to the local authority for example, covering email/recorded delivery slip The tenancy is a joint tenancy. A notice to leave should be served on each tenant.

Please provide notices to leave and proof of service on each tenant or an explanation as to how the notice to leave that has been submitted fulfils the statutory requirements in relation to service of a notice to leave as set out in the Private Housing (Tenancies)(Scotland) Act 2016."

- 3 The Applicant's representative did not respond. On 3 March 2025 the Tribunal wrote again to the Applicant's representative by email, noting the lack of response. The Applicant was asked to provide the information no later than 17 March 2025, failing which the application would likely be rejected.
- 4 No further response was received from the Applicant.

Reasons

- 5 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."
- 6 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 determine whether all mandatory requirements for lodgement have been met. The Applicant's representative has been asked for the information on two occasions. They have been warned that a failure to provide the information may result in the application being rejected. The Applicant has therefore been given the opportunity to address the outstanding matters. Accordingly the Legal Member has concluded that the application cannot be accepted in its current form and there is therefore good reason to reject the application 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**
11 April 2025