



DECISION AND STATEMENT OF REASONS OF NICOLA WEIR, LEGAL MEMBER OF THE FIRST-TIER TRIBUNAL WITH DELEGATED POWERS OF THE CHAMBER PRESIDENT

Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Procedure Rules")

Case Reference: FTS/HPC/CV/24/3616

26F Bradan Road, Troon, KA10 6DS ("the Property")

Catriona Stewart ("the Applicant")

1. The Applicant lodged an application under Rule 111 of the Procedure Rules (application for payment) in respect of unpaid rent in terms of Section 71 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act"), received by the Tribunal on 7 August 2024. A previous application had been lodged by the Applicant on 13 February 2024 for an eviction order in respect of rent arrears, which was subsequently granted on 19 August 2024.
2. The application was considered by a Legal Member of the Tribunal acting under delegated powers from the Chamber President under Rule 9 of the Procedure Rules. An information request was sent by email to the Applicant on 3 September 2024 which was not responded to. Subsequent requests were issued by the Tribunal on 29 October 2024, 16 December 2024 and 6 February 2025, none of which have been responded to. The later requests were sent by post as well as email to the Applicant, to no avail. The information required was a forwarding address for the Respondent whose address was given as the tenancy address in this application but who appeared to have subsequently been evicted, by virtue of the eviction order mentioned above. The Tribunal had also requested proof of the debt owed in the form of a rent statement and for bank statements which had been submitted with the application to be withdrawn/redacted. The applicant was informed in the requests that failure to respond may lead to the formal rejection of the application.
3. To date, there has been no response from the Applicant.

Decision

4. Following further consideration of the application the Legal Member considers

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.”

Reasons for Decision

5. Rule 5 of the Procedure Rules states that an application “is held to have been made on the date that it is lodged if, on that date, it is lodged in the manner as set out in...” the relevant Rule. In terms of Rules 5(2) and (3) the Chamber President or a Member with delegated powers must assess whether the “mandatory requirements for lodgement have been met” and “may request further documents”.
6. The Applicant has failed to meet the mandatory requirements for lodgement. These requirements have been explained to the Applicant who has been given several opportunities to provide the information and documentation required or to clarify the position. However she has failed to do so. The communications to the Applicant made it clear that, in the absence of a response, the application may be rejected.
7. The Applicant has failed to comply with Rules 5 and 111 of the Procedure Rules. In the circumstances, the Legal Member is satisfied that there is good reason to believe that it would not be appropriate to accept the application. The application is rejected on that basis.

What you should do now

If you accept the Legal Member’s decision, there is no need to reply.

If you disagree with this decision –

An applicant aggrieved by the 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 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. Information about the appeal procedure can be forwarded to you on request.

N.Weir

21 March 2025