

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/24/3703

4 Kenilburn Crescent, Airdrie, ML6 6QH ("the Property")

Parties:

Co Jak G Ltd ("the Applicant")

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

Decision

The Tribunal rejects the application by the Applicant dated 12 August 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 12 August 2024 the Applicant submitted an application under Rule 109 of the Rules for an eviction order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act").
- 2 Following a review of the application by a Legal Member with delegated powers from the Chamber President, the Tribunal wrote to the Applicant by email on 10 September 2024 in the following terms:-

"Before a decision can be made, we need you to provide us with the following:

1. The tenancy agreement shows a joint tenant but you have only named one Respondent and provided a notice to leave served only upon one Respondent. Please confirm whether the joint tenancy agreement was formally brought to an end, and provide a copy of the new tenancy agreement in the sole name of the Respondent. Alternatively, please provide evidence that the notice to leave was served upon the joint tenant. You may wish to take advice in this regard.

2. The Title Deed shows ownership to be in the name of two individuals, and not in the Applicant's name. Please confirm how the Applicant has right, title and

interest to make the application. Please consider whether the Applicant has been correctly named in the application form. If there is still a joint owner, we would expect to see both owners as joint applicants or to have a mandate from a joint owner authorising the other to make the application in their sole name.

3. Please provide a copy of the recorded delivery posting receipt.

4. Please provide proper evidence of intention to sell such as a contract with a selling agent or a home report.

Please reply to this office with the necessary information by 24 September 2024. If we do not hear from you within this time, the President may decide to reject the application.”

- 3 The Applicant did not respond. The Tribunal emailed the Applicant again on 14 November 2024 requesting a response to the previous request for information of 10 September 2024 within fourteen days, failing which the application would be rejected. Again, the Applicant did not respond. On 27 January 2025 the Tribunal wrote to the Applicant by post noting the lack of response. The Tribunal requested the information within fourteen days, failing which the application would 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 meet the required manner for lodgement for an application under Rule 109. The Applicant has been asked for the information on three occasions. 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 as it does not comply with the requirements of Rule 109. 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
12 March 2025