

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/24/4826

12 Middlefield Avenue, Kirriemuir, DD8 5AE ("the Property")

Parties:

**Milnbank Developments ("Applicant")
Belvoir Dundee (Applicant's representative")**

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

Decision

The Tribunal rejects the application by the Applicant received by it on 17 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's representative submitted an application to the Tribunal on behalf of the Applicant under rule 66 of the Rules, seeking an eviction order against the Respondent.
- 2 Following review of the application by a Legal Member of the Tribunal, the Tribunal wrote to the Applicant's representative in the following terms:-

"Your application has been reviewed by a Legal Member of the Tribunal. Before a decision can be made on whether your application can proceed we require the following information:-

- 1. Please submit a copy of the tenancy agreement.*
- 2. The application has been submitted under Rule 66 – section 33 of the Housing (Scotland) Act 1988. However, in the application it is stated that the ground for possession is rent arrears. Please confirm if you are proceeding under section 33. If you seek to rely on rent arrears or any other ground in schedule 5 of the 1988 Act you will require to submit an application under rule 65.*
- 3. Please provide proof of service of the notice to quit/section 33 notice.*
- 4. Please provide proof of service of the section 11 notice.*

5. The title deeds to the property show the proprietors as Anthony Banks and William Milne. Please clarify the basis on which the named applicant entered into a tenancy agreement in respect of the property.

Please reply to this office with the necessary information by 2 December 2024. If we do not hear from you within this time, the President may decide to reject the application.”

- 3 The Tribunal received no response from the Applicant’s representative. The Tribunal sent reminder emails to the Applicant’s representative on 3 January 2025 and 21 February 2025 noting the lack of reply, and reiterating that in the absence of a response to the request for information the application may be rejected.
- 4 No further response was received from the Applicant’s representative.

Reasons for Decision

- 5 The Legal Member considered the provisions of Rule 8(1)(c) of the Rules 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.*” In this case 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 66. The Tribunal has requested this information from the Applicant’s representative on three occasions. The Applicant’s representative has been advised that in the absence of a response the application may be rejected.
- 6 The Legal Member considers that the failure to provide the information required under Rule 66 constitutes good reason as to why it would not be appropriate to accept the application in its current form. Accordingly the Legal Member has concluded that the application 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
4 April 2025

