

Housing and Property Chamber
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF PAMELA WOODMAN, 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 Procedural Rules**")

in connection with

Flat 2/2, 39 Tannahill Court, Ferguslie Walk, PA1 2RQ

Case Reference: FTS/HPC/CV/20/0552

Mr Scott MacColl, Mrs Sarah MacColl (Applicant)

Miss Courtney Murphy (Respondent)

1. On 17 February 2020, an application was received from the applicant. The application was made under Rule 111 of the Procedural Rules, being an application for civil proceedings in relation to a private residential tenancy under the Private Housing (Tenancies) (Scotland) Act 2016. The following documents were enclosed with the application:-
 - a. Tenancy Agreement
 - b. Rent Ledger
2. By letters from the Tribunal dated 28 February and 30 June both 2020 the Tribunal requested further information regarding the following matters,
 - *The application is in the name of Scott MacColl and Sarah MacColl however we note the Tenancy Agreement is only in the name of Scott MacColl as landlord. Please confirm on what basis Sarah MacColl is a party to the application.*
 - *The property is in the ownership of H.Morris and Company Ltd. Can you confirm the legal basis upon which Scott MacColl is the landlord of the property.*
3. The applicants failed to provide the further information requested.

DECISION

4. I considered the application in terms of Rule 8 of the 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;
- (b) the dispute to which the application relates has been resolved;
- (c) they have good reason to believe that it would not be appropriate to accept the application;
- (d) they consider that the application is being made for a purpose other than a purpose specified in the application; or
- (e) the applicant has previously made an identical or substantially similar application and in the opinion of the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, there has been no significant change in any material considerations since the identical or substantially similar application was determined.

(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."

5. After consideration of the application, the attachments and correspondence from the applicant, I consider that the application should be rejected on the basis that I have good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

REASONS FOR DECISION

6. The Tribunal has requested further information to support the application from the applicants. This information and evidence has not been provided. The applicants have not explained (1) why Sarah MacColl is a party to the application and the application is in the name of Scott MacColl and Sarah MacColl, when the Tenancy Agreement is only in the name of Scott MacColl as landlord; and (2) the legal basis upon which Scott MacColl is the landlord of the property, when the property is in the ownership of H. Morris and Company Ltd.
7. I consider that the applicants' failure to provide information and evidence to support the application, as requested by the Tribunal, gives me good reason to believe that it would not be appropriate to accept the application in circumstances where the applicants are apparently unable to do so in order to progress this application.
8. Accordingly, for this reason, this application must be rejected upon the basis that I have good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

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.

Melanie Barbour

Melanie Barbour
Legal Member
24 August 2020