

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of Alan Strain, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber)

Under Rule 5 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules")

Chamber Ref: FTS/HPC/CV/19/0949

Re: 164 Millburn Avenue, Dumfries, DG1 4BQ ("the Property")

Parties:

Mrs Emma Swift ("the Applicant")

Mrs Carol Haining ("the Respondent")

Mrs Sandra Thom (Applicant's Representative)

Tribunal Member:

Alan Strain (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should not be accepted in accordance with Rule 5 (4) of the Procedural Rules.

Background

1. The application was received by the Tribunal under Rule 111 on 25 March 2019. The Applicant seeks a civil order for payment in respect of rent arrears. The following documents were enclosed with the application:
 - (i) A signed Tenancy Agreement in respect of the Property commencing 1 February 2018; and
 - (ii) Bank Statements.

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2. On 5 April 2019 the Application was considered by the Tribunal and a request for further information issued. The Applicant's agents were requested to provide inter alia the following:
 - (i) As the Property was in joint names and the owners were joint landlords confirmation as to the position of the other landlord;
 - (ii) Rent Statement showing payments made, due and owing.

The Applicant's agents were requested to provide the information by 19 April 2019 failing which the application may not be accepted.

3. The Applicant responded by email of 8 April 2019 providing confirmation that the joint owner was aware of and consented to the application. The email stated that the bank statements provided evidence that the tenant was in arrears. The Tribunal considered the Application again on 26 April 2019 and gave the Applicant until 10 May 2019 to respond with a rent statement and detail as to how the amount claimed had been calculated. No response was received.

Reasons for Decision

4. The Tribunal considered the application in terms of Rule 5 of the Chamber Procedural Rules. That Rule provides:-

"Requirements for making an application

5.—

(1) 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 rules 43, 47 to 50, 55, 59, 61, 65 to 70, 72, 75 to 91, 93 to 95, 98 to 101, 103 or 105 to 111, as appropriate.

(2) The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged in the required manner by assessing whether all mandatory requirements for lodgement have been met.

(3) If it is determined that an application has not been lodged in the prescribed manner, the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, may request further documents and the application is to be held to be made on the date that the First-tier Tribunal receives the last of any outstanding documents necessary to meet the required manner for lodgement.

(4) The application is not accepted where the outstanding documents requested under paragraph (3) are not received within such reasonable period from the date of request as the Chamber President considers appropriate."

5. An application under Rule 111 requires specified documentation to be lodged with it:

"Application for civil proceedings in relation to a private residential tenancy

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• 111. Where a person makes any other application to the First-tier Tribunal by virtue of section 71(1) (First-tier Tribunal's jurisdiction) of the 2016 Act, the application must—

(a) state—

(i) the name and address of the person;

(ii) the name and address of any other party; and

(iii) the reason for making the application;

(b) be accompanied by—

(i) evidence to support the application; and

(ii) a copy of any relevant document; and

(c) be signed and dated by the person."

6. In this Application the Applicant's agents have been requested to provide information and documentation necessary for acceptance of the application. They were given a reasonable period of time to do so and have not done so. In accordance with Rule 5(4) of the Tribunal Procedure Rules the Tribunal considers that the Application should not be accepted.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal 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.

Mr Alan Strain

Legal Member/Chair

Date

3 June 2019