

Housing and Property Chamber
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF JAMES BAULD, 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

20 Springfield Drive Barrhead G78 2 PF ("the Property")

Case Reference: FTS/HPC/CV/19/1570

Elaine Black ("the Applicant")

Kirsty Deehan ("the Respondent")

1. The application was made under Rule 65 of the Procedural Rules being an application for an eviction order in connection with an assured tenancy. The application was accompanied by no supporting documentation.
2. By way of letter and email dated 24 May 2019, a request for further information was sent to the Applicant. The applicant was asked to produce a copy of the tenancy agreement, any notices served on the tenant and evidence of the existence of an eviction ground.
3. A response was received from the Applicant to this request. The applicant advised she did not have copies of the various documents. A further request dated 14 June 2019 was sent to the applicant again asking her to produce these documents and explaining that it is the applicant's duty to provide evidence to support an application. This request also advised that the application may be rejected should the information not be provided. No response has been received.

DECISION

4. The circumstances in which an application is to be rejected are governed by Rule 8 of the Chamber 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 further information referred to and correspondence from the Applicant's agent, the Legal Member considers that the application should be rejected on the basis 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. A request was made for further information from the Applicant. This request was necessary to allow the application to proceed. The information requested was essential to allow further progress of the application. In the absence of any response by the Applicant, it would not be appropriate to accept the application.

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.

Mr James Bauld

Legal Member

12 July 2019