

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of Joan Devine, 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 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules")

Chamber Ref: FTS/HPC/EV/19/1697

Re: TFL, 31 Scott Street, Dundee DD2 2AL ("House")

Parties:

Mrs Heather Philip ("Applicant")

Mr Jamie Graham ("Respondent")

Scott Alexander Solicitors ("Applicant's Representative")

Tribunal Member:

Joan Devine (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined that the Application should be rejected on the basis that it would not be appropriate to accept the Application in terms of Rule 8(1)(c) of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 ("the Rules").

Background

The Application was received by the Tribunal under Rule 66 on 3 June 2019. The Applicant sought an order for eviction in terms of Section 33 of the Housing (Scotland) Act 1988 ("1988 Act"). The documents produced with the Application did not include a notice in terms of Section 33 of the 1988 Act or proof of service of the notice on the Respondent. On 17 June 2019 the Tribunal asked the Applicant's Representative to provide a copy of the Section 33 Notice along with proof of service thereof. On 18 July 2019 the Tribunal wrote to the Applicant's Representative again requesting a copy of the Section 33 Notice along with proof of service thereof. A

reply was requested by 1 August 2019. On 16 August 2019 the Tribunal wrote to the Applicant's Representative seeking a reply to the communication of 18 July 2019. No reply was received. On 18 September 2019 the Application was considered by the Tribunal. The Tribunal noted that there was no response had been received to the inquiries regarding the Section 33 Notice and proof of service thereof.

Reasons for Decision

The Tribunal considered the application in terms of Rule 8 of the Rules which states :

"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-

(c) they have good reason to believe that it would not be appropriate to accept the application;

(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."

In light of the lack of a response from the Applicant's Representative, the Tribunal determined that the Application should be rejected.

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.

J. Devine

Legal Member

Date

18 September 2019