



**DECISION AND STATEMENT OF REASONS OF NICOLA WEIR, 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 Procedure Rules")**

**Case Reference: FTS/HPC/EV/23/1750**

**12a Almanythie Road, Peterhead, AB42 ("the Property")**

**Christopher Puttick, Gillian Puttick, ("the Applicant")**

**Ausra Sableviciute, Mantas Dovidavicuis ("the Respondent")**

1. The Applicant seeks an order for possession in terms of Rule 65 of the Procedure Rules and Section 18 of the Housing (Scotland) Act 1988 ("the 1988 Act"). Supporting documentation was lodged with the application, which was dated 19 May 2023 and lodged with the Tribunal on 26 May 2023. The application was lodged on behalf of the Applicant by their legal representative from Stewart and Watson, Solicitors ("the Applicant's representative") and all correspondence has been with said representative.
2. A request for further information was issued by the Tribunal on 31 May 2023, requesting a copy of the Notice to Quit served on the Respondent. This was lodged on 7 June 2023. The Tribunal sought further information on 19 June 2023, querying the validity of the Notice to Quit. A response was received from the Applicant's representative to the effect that the Notice to Quit is valid but not explaining why. On 29 July 2023, the Tribunal issued a request for further information in the following terms:-

*"A Legal Member of the Tribunal with delegated powers of the President has considered your response. The two week notice period referred to in your response relates to the AT6 notice served in terms of section 19 of the 1988 Act. A valid Notice to quit is also required. The Notice you have lodged is dated 25 April and states that the tenant is to vacate by 11 May 2023. It is established law that the date in the Notice to quit must coincide with an ish date. In terms of the tenancy agreement it appears that there is an ish on the 2nd of each month. In addition, section 112 of the Rent (Scotland) Act states that a Notice to Quit must give at least 4 weeks notice. It therefore appears that the Notice is invalid. As there is insufficient information in the tenancy for Section 18(6) of the 1988 Act to apply, a*

*valid Notice is required. Please clarify the basis upon which the application can be accepted or confirm if the application is to be withdrawn. Please respond within 14 days or your application may be rejected. Please reply to this office with the necessary information by 12 August 2023. If we do not hear from you within this time, the President may decide to reject the application.”*

A further response was received on 11 August 2023, reiterating the terms of the Applicant’s representative’s previous response. A further request for clarification was sent by the Tribunal on 7 September 2023 and again, a response was received dated 22 September 2023, simply reiterating previous responses.

## **Decision**

3. After consideration of the application the Legal Member considers that the application should be rejected in terms of Rule 8(1)(c) 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.”

## **Reasons for Decision**

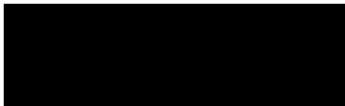
4. Rule 5 of the Procedure Rules states that an application “is held to have been made on the date that it is lodged if, on that date, it is lodged in the manner as set out in...” the relevant Rule. In terms of Rules 5(2) and (3) the Chamber President or a Member with delegated powers must assess whether the “mandatory requirements for lodgement have been met” and “may request further documents”.
5. The Applicant has lodged a Notice to Quit required in terms of Rule 65. However, the Notice to Quit does not appear to be valid as the date stated therein does not appear to coincide with an ish date in terms of the tenancy agreement produced, and nor does the Notice to Quit provide a sufficient period of notice, all in terms of paragraph 2 above. The Applicant’s representative has been given several opportunities to clarify the position and explain on what basis the Notice to Quit is valid but has failed to adequately do so. All responses received refer to a period of 2 weeks’ notice being required which is incorrect in terms of the Notice to Quit. No clarification or explanation has been provided regarding the matter of the ish date.
6. The Applicant has failed to comply with Rules 5 and 65 of the Procedure Rules. In the circumstances, the Legal Member is satisfied that there is good reason to believe that it would not be appropriate to accept the application. The application is rejected on that basis.

## **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.



Nicola Weir, Legal Member  
6 October 2023