

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF PETRA HENNIG MCFATRIDGE LEGAL  
MEMBER OF THE FIRST-TIER TRIBUNAL WITH DELEGATED POWERS OF THE CHAMBER  
PRESIDENT**

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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 1-1, 2 Carnoch Street, Glasgow G23 5HU

**Case Reference: FTS/HPC/EV/19/1892**

**Mr and Mrs McTeague's 2012 Settlor Interested Liferent Trust (McTeague Trust) ("the  
applicant")**

**Jennifer McComb ("the respondent")**

On 19 June 2019 an application was received from the applicant. The application was made under Rule 109 of the Procedural Rules being an application for an eviction order under S 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The following documents were enclosed with the application:-

Tenancy Agreement, S 11 Notice to Local Authority, Notice to Leave

**DECISION**

Petra  
Hennig-  
McFatrige

1. 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."*

2. After consideration of the application, the attachments and correspondence from the Applicant, I consider 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**

The application was made on 19 June 2019. The Notice to Leave states that the application will not be submitted to the Tribunal for an eviction order before 22 July 2019.

The S 11 Notice to the Local Authority also states that proceedings will be raised on 22 July 2019.

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~~On 19 June 2019, the time the application was made, the notice period had not expired.~~

Proceedings cannot be raised until the expiry of the notice period. The application is thus premature and cannot be accepted at this stage.

Accordingly, for these reasons, this application is rejected under 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.

Petra Hennig-McFatrige

Petra Hennig-McFatrige  
Legal Member  
1 July 2019