



**DECISION AND STATEMENT OF REASONS OF JOSEPHINE BONNAR,  
LEGAL MEMBER OF THE FIRST-TIER TRIBUNAL WITH DELEGATED  
POWERS OF THE CHAMBER PRESIDENT**

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

**in connection with**

**29/2 Rannoch Place, Edinburgh ("the Property")**

**Case Reference: FTS/HPC/EV/20/1316**

**Lendrick Gillies, 132 St Johns Road, Edinburgh ("the Applicant")**

**Pablo Garcia, 29/2 Rannoch Place, Edinburgh ("the Respondent")**

1. By application received on 19 March 2020, the Applicant seeks an eviction order in terms of Rule 109 of the Rules and Section 51 Private Housing (Tenancies) (Scotland) Act 2016. The eviction ground stated in the application form is ground 2, property to be sold by lender. A Notice to leave dated 22 October 2019 was submitted with the application. The date specified in Part 4 of the Notice is 21 November 2019.
2. On 29 June 2020, the Tribunal issued a letter to the Applicant which directed the Applicant to provide a copy of the tenancy agreement, evidence of service of the Notice to leave, evidence that the Section 11 Notice had been sent to the Local Authority and evidence to support the eviction ground. The Tribunal also noted that the Applicant was not the owner or landlord of the property and asked for clarification of the Applicant's entitlement to make the application, or whether the application should be amended. On 11 August 2020 the Applicant's representative indicated that the name of the Applicant should be

amended to Pauline Gillies. No contact details for the new Applicant were provided. The Applicant's representative also stated that they were unable to provide a copy of the email sending the section 11 Notice to the Local Authority and that they were trying to find letters from the Bank of Ireland, as evidence of the eviction ground. On 13 August 2020, the Tribunal wrote to the Applicant asking for contact details for the new Applicant. On 1 September 2020, the Tribunal wrote to the Applicant requesting contact details for Pauline Gillies, evidence of service of the section 11 Notice and evidence in support of the eviction ground. The Applicant was advised that a response was required by 15 September 2020, or the application may be rejected. No response was received. On 30 September 2020 a further letter was issued directing the Applicant to provide a response by 14 October 2020, or the application may be rejected. No response has been received. .

## **DECISION**

3. The Legal Member considered the application in terms of Rule 5 of the Chamber Procedural Rules. That Rule provides:-

“(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 lodgment 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 requirement manner for lodgment. “

4. **After consideration of the application, the supporting documentation and correspondence from the Applicant, the Legal Member considers that the application should be rejected on the basis that the Applicant has failed to comply with Rule 5.**

### **Reasons for Decision**

5. The Applicant submitted an application for an eviction order in terms of Rule 109 of the Procedural Rules. This Rule states that the application must – (a) state – (i) the name, address and registration number (if any) of the landlord;” and “(b) be accompanied by – (i) evidence showing that the eviction ground has been met;” The Applicant has failed to provide an address or evidence to support the eviction ground. On 29 June, 13 August, 1 and 30 September 2020 the Tribunal wrote to the Applicant, directing the Applicant to provide an address and lodge the required evidence. The Applicant has failed to respond or provide the required documents.
6. The Applicant has failed to provide an address or evidence in support of the eviction ground, as required by Rule 109 of the Rules. The Applicant has also failed to provide this information and documentation, having been directed to do so in a request for further information by the Tribunal in terms of Rule 5(3) of the Rules. The Legal Member determines that the application cannot be accepted. The application is rejected on that basis. The Legal Member also notes that the Notice to leave submitted with the application appears to be invalid, as the date specified in Part 4 is incorrect. The application may therefore have been rejected, had the Applicant complied with Rule 5.

### **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.

Josephine Bonnar

Josephine Bonnar, Legal Member  
26 October 2020