



**DECISION AND STATEMENT OF REASONS OF SUSANNE L. M. TANNER Q.C.,  
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 (Procedure) Regulations 2017, as amended, Schedule 1 ("the 2017  
Rules")**

**in connection with**

**10 Hopeward Court, Dalgety Bay, Fife, KY11 9TF ("the Property")**

**Case Reference: EV/19/2072**

**Mrs Joanne Hannah, 38 Spinnaker Way, Dalgety Bay, Dunfermline, Fife, KY11 9GU  
("the Applicant")**

**Robert F MacDonald Solicitors, 11 Wemyssfield, Kirkcaldy, Fife  
("the Applicant's Representative")**

**Ms Michelle Dryburgh and Mr Asif Mahmood, 10 Hopeward Court, Dalgety Bay, Fife,  
KY11 9TF  
("the Respondents")**

**DECISION**

The Application dated 4 July 2019 is rejected on the basis that there is good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Rules").

## REASONS

1. On 4 July 2019, an application was received from the Applicant's Representative. ("the Application"). The Application was made under Rule 109 of the 2017 Rules, being an application for an eviction order in a private residential tenancy. The following documents were enclosed with the Application:-
  - a. Copy Model Private Residential Tenancy (*tenant details missing; not signed or dated by tenant – see below*);
  - b. Copy s11 notice
  - c. Two copy notices to leave (*one signed and dated 30 May 2019 and one unsigned and undated – see below*); with apparent evidence of service by email and personal service; and
  - d. Copy Home Report dated 28 June 2019.
2. On 5 July 2019 the tribunal obtained the Title Sheet to the Property which showed that the two registered proprietors since 29 November 2016 are Stuart Thomas Hannah and Joanne Mary Ford or Hannah, both 10 Hopeward Court, Dalgety Bay, Dunfermline, KY11 9TF.
3. On 22 July 2019, the Application was considered by a legal member of the tribunal acting under the delegated powers of the Chamber president. The copy Model Private Residential Tenancy "agreement" lodged with the Application was incomplete in that there were no tenant details completed in Section 1 and the "agreement" was not signed by any tenants. Two copy notices to leave (one signed and dated 30 May 2019 and one unsigned and undated) were produced with the Application. It was not clear to which copy of the Notice to Leave the evidence of service by email and/or personal service related. Separately, the Application for eviction was brought in the name of only one of the joint registered proprietors.
4. On 22 July 2019, the tribunal sent a letter and email to the Applicant's Representative and requested further, as follows:

*"Before a decision can be made, we need you to provide us with the following:*

- a. *The copy tenancy agreement lodged with the application does not contain the tenants' details and is unsigned and undated. Please provide a copy of the signed and dated tenancy agreement. If no tenancy agreement was signed by the tenants, please provide other evidence of the existence of a tenancy between the parties.*
- b. *The Application is in the name of one of the two joint owners of the property. Please advise if you wish to amend the Application to both names or confirm if the joint owner is content for the application to proceed in the name of the Applicant alone."*

*Please reply to this office with the necessary information by 5 August 2019. If we do not hear from you within this time, the President may decide to reject the Application."*

5. No correspondence or further information was received from the Applicant's Representative by 5 August 2019.
6. On 19 August 2019, the tribunal sent a further letter to the Applicant's Representative, referring to its letter of 22 July and again requesting the further information, giving a new deadline of 2 September 2019 and stating that if the information is not provided, the President may decide to reject the Application.
7. No correspondence or further information was received from the Applicant's Representative by 2 September, or up to and including 17 September 2019.
8. On 17 September 2019, the Application paperwork was considered by a legal member of the tribunal with delegated powers of the Chamber President. As at that date no information had been received from the Applicant's Representative to the tribunal's requests to provide information dated 22 July and 19 August 2019.
9. The Application was considered in terms of Rule 8 of the 2017 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."*

10. The Applicant's Representative has had ample opportunity to provide the required information in response to the tribunal's requests of 22 July and 19 August 2019 and has not done so by 2 September 2019 (or indeed by 17 September 2019 when the matter was re-considered by the legal member acting under the delegated powers of the Chamber President). The tenancy agreement lodged with the Application is deficient for the reasons stated above. No complete, signed and dated private residential tenancy agreement was produced within the required timescale. In addition the Applicant's Representative has failed to address the request for further information in relation to the joint ownership of the Property within the required timescale.

11. After consideration of the Application, and the said failures of the Applicant's representative, I considered that the Application should be rejected on the basis that I have good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

## **What you should do now**

12. If you accept the Legal Member's decision, there is no need to reply.

13. 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.

Susanne L M Tanner Q.C.

Legal Member

17 September 2019