



**DECISION AND STATEMENT OF REASONS OF MS. SUSANNE L. M. TANNER  
Q.C., LEGAL MEMBER OF THE FIRST-TIER TRIBUNAL WITH DELEGATED  
POWERS OF THE CHAMBER PRESIDENT**

**Under Schedule 1, Rule 8 of The First-tier Tribunal for Scotland Housing and  
Property Chamber (Procedure) Regulations 2017, as amended ("the 2017  
Rules")**

**in connection with**

**Ref: FTS/HPC/EV/20/2588**

**Flat 1/2, 126 Neilston Road, Paisley, PA2 6EP ("the Property")**

**Ms Madhu Jain, 22 Seafield Avenue, Bearsden, G61 3LB ("the Applicant")**

**Castle Residential, 63 Causeyside, Paisley, PA1 1YT ("the Applicant's  
Representative")**

**Mr Juozas Kavaliukas, Flat 1/2, 126 Neilston Road, Paisley, PA2 6EP ("the  
Respondent")**

**DECISION**

**It was determined by the Legal Member acting under the delegated powers  
of the Chamber President, in terms of 8 of the 2017 Rules that there was a  
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,  
therefore the Application must be rejected in terms of Rule 8(1).**

**REASONS**

1. On 14 December 2020, an application dated 14 December 2020 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 order for eviction in relation to a private residential tenancy. The Applicant's Representative submitted documents with the Application.

2. An application made in terms of Rule 109 must-

*“(a) state—*

- (i) the name, address and registration number (if any) of the landlord;*
- (ii) the name, address and profession of any representative of the landlord;*
- (iii) the name and address of the tenant [ (if known)]<sup>1</sup> ; and*
- (iv) the ground or grounds for eviction;*

*(b) be accompanied by—*

- (i) evidence showing that the eviction ground or grounds has been met;*
- (ii) a copy of the notice to leave given to the tenant as required under section 52(3) of the 2016 Act; and*
- (iii) a copy of the notice given to the local authority as required under section 56(1) of the 2016 Act; and*
- (iv) a copy of Form BB (notice to the occupier) under schedule 6 of the Conveyancing and Feudal Reform (Scotland) Act 1970 (if applicable); and*

*(c) be signed and dated by the landlord or a representative of the landlord”.*

3. On 6 January 2021, the Application was considered by a Legal Member with the delegated powers of the Chamber President. The Application did not meet the statutory requirements. A letter was sent to the Applicant’s Representative as follows:

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

- 1) The copy tenancy agreement which you have provided appears to be missing the final two pages including the signature section. Could you please send those pages to the Tribunal.*
- 2) We note that the notice to leave is dated 13th January 2020, and that you have provided a postal receipt which appears to relate to service of the notice of the same date. However, the covering letter provided to the tenant with the notice to leave bears to be dated 23rd January 2020. Could you please explain the difference in dates, and which date is the correct date when the notice was sent.*
- 3) Could you please provide evidence of intimation of the section 11 notice you have provided to the local authority.*

*Please reply to this office with the necessary information by 20 January 2021. If we do not hear from you within this time, the President may decide to reject the application.”*

4. The Applicant's Representative did not respond to the request for further information.
5. On 27 January 2021, the Application was considered by a legal member acting under the delegated powers of the Chamber President. A letter was sent to the Applicant's Representative in the following terms:

*"I refer to your recent application which has been referred to the Chamber President for consideration.*

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

*Please provide the information requested in the Tribunal's letter to you of 6 January 2021.*

*Please reply to this office with the necessary information by 10 February 2021. If we do not hear from you within this time, the President may decide to reject the application."*

6. As a result of an administrative error, the original cover email sent by the tribunal's administration on 27 January 2021, attaching the above letter, had the wrong case reference number in the subject line. The tribunal's administration sent a further email on 27 January 2021, apologising and correcting the reference in the subject line. The Applicant's Representative replied on 27 January 2021 and stated: *"Thats ok i worked it out when i opened the attachments [sic]"*.
7. Other than the above email The Applicant's Representative did not reply to the further request for information.
8. On 25 February 2021, the Application was considered by a legal member of the tribunal acting under the delegated powers of the Chamber President, in terms of Rules 5, 8 and 103 of the 2017 Rules.
9. Rule 8 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. After consideration of the Application and its attachments, the repeated further information requests and the Applicant's Representative's failure to respond to the substantive requests, it was determined that the requirements for making an application under Rule 109 have not been met. At the time at which it was made, the Application did not meet the requirements for making an Application in terms of Rule 109. The Applicant's Representative has failed to respond to the matters raised in the tribunal's further information requests. The Applicant's Representative has not provided the required information within the stipulated timescales. For those reasons, it was determined that there was a 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; therefore the Application must be rejected in terms of Rule 8(1).

**11. What you should do now**

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

b. 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.

# S Tanner

**Ms. Susanne L. M. Tanner Q.C.**

Legal Member

25 February 2021