



**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/21/0669**

**Re: 165 Stoneylee Road, Cumbernauld, G67 2LS ("the Property")**

**Mr Andrew Hunter, 2a Westmount Park, Newtonards, County Down, BT23 4BP ("the  
Applicant")**

**Anderson Strathern Solicitors, 50 George Square, Glasgow, G1 1EH ("the Applicant's  
Representative")**

**Mr Ryan Savage and Ms Gloria Savage, 165 Stoneylee Road, Cumbernauld, G67 2LS  
("the Respondents")**

**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 15 March 2021, an application dated 12 March 2021, 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 relation to a private  
residential tenancy. The Applicant attached a number of documents.**
- 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); and
  - iv. The ground or grounds for eviction;
- b. And 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 tenancy 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 ... (if applicable).
- c. Be signed and dated by the landlord or a representative of the landlord.
3. On 29 March 2021, the Application was considered by a Legal Member with the delegated powers of the Chamber President and 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) This application appears to be premature. The notice to leave dated 27th January 2021 and served on the tenants the same day, specifies that an application will not be submitted to the Tribunal before 25th February 2021. The period of notice required in terms of the Coronavirus (Scotland) Act 2021 is 6 months. Please confirm if you wish to withdraw this application and re-submit it after expiry of the correct notice period, or to proceed with the application on the basis that you intend to ask the Tribunal to entertain the application in terms of (Section 52(4) 2016 Act).  
2) In the event that you wish to ask the Tribunal to entertain the application, please provide evidence that the Applicant has complied with the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020. The Tribunal would refer you in this regard to the Scottish Government Guidance ("Sustaining Tenancies, Maintaining Homes (Summary Guidance)"). Failure to comply may affect whether the Tribunal will be satisfied that it is reasonable to grant an order.*

*Please reply to this office with the necessary information by 12 April 2021. If we do not hear from you within this time, the President may decide to reject the application."*

4. The Applicant's Representative failed to respond to the request for further information.
5. On 22 April 2021, a further request for the said information was sent to the Applicant's Representative, in the following terms:

*"Good afternoon,*

*We refer to our letter of 29th March requesting further information and note we have not heard from you.*

*Please now respond to that request within 14 days failing which your application may have to be rejected.”*

6. The Applicant's Representative failed to respond to the request for further information.
7. On 19 May 2021, the Application was considered by a legal member acting under the delegated powers of the Chamber President, in terms of Rules 5, 8 and 103 of the 2017 Rules.
8. 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."*

9. After consideration of the Application, the attachments and the repeated further information 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 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).

**10. 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

19 May 2021