



**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/21/0971

Re: 1/1 117 Allison Street, Glasgow, G42 8NE ("the Property")

**Miss Nicola Sharp, N & S Properties 9 Buckingham Street, Glasgow, G12 8DL ("the
Applicant")**

Redbox PS, 589 Lawmoor Street, Glasgow, G5 0TT ("the Applicant's Representative")

Ms Luliana Teglas 1/1 117 Allison Street, Glasgow, G42 8NE ("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. An application dated 19 April 2021, was received from the Applicant's
Representative ("the Application"). The Application was made under Rule 65 of the 2017
Rules, being an application for an order for possession in relation to an assured tenancy.
The Applicant's Representative attached a number of documents.**
- 2. An application made in terms of Rule 65 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; and
 - iii. The possession grounds which apply as set out in Schedule 5 of the 1988 Act;
- b. be accompanied by-
- i. a copy of the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the landlord can give;
 - ii. a copy of the notice served on the tenant by the landlord of intention to raise proceedings for possession of a house let on an assured tenancy;
 - iii. a copy of the notice to quit served by the landlord on the tenant (if applicable); and
 - iv. evidence as the applicant has that the possession ground or grounds has been met;
 - v. a copy of the notice given to the local authority by the landlord under section 11 of the Homelessness (Scotland) Act 2003 (if applicable);
 - vi. ...
- c. Be signed and dated by the landlord or a representative of the landlord.

3. On 29 April 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. *It appears that the end date in the lease is the 31st of March or 31th September each year.(Albeit there is no 31st of September.) A notice to quit requires to be served terminating the tenancy on the end date please explain why you consider the notice to quit submitted with the application is valid as it refers to 1st April 2021?*

2. *The application is made under rule 65, which relates to application for recovery of possession under section 18 of the Housing (Sc.) Act 1988, and it refers to seeking recovery under ground 8 of the 1988 Act; your application papers however appear to support an application for recovery of possession under section 33 of the 1988 Act. Please confirm if you make this application under rule 66 and if you do please amend the application accordingly.*

3. *If your application is under section 33 please provide a copy of the AT5 Notice which requires to have been served on the tenant before the commencement of the tenancy.*

4. *If you do seek recovery of possession under Ground 8, please provide*

A.a copy of the AT6 Notice which you need to have served on the tenant; together with evidence of service.

evidence that ground 8 is met, i.e. a rent statement, showing monthly rent due, monthly rent paid, monthly amount outstanding and cumulative total.

evidence that you have complied with the pre-action requirements in terms of

Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020

5. *JAMES SHARP is also named on the title deeds for the property as one of the partners of N&S Properties, please amend both applications to include this partner or explain why he no longer has an interest in these proceedings.*

6. *Please provide a copy of the section 11 notice which needs to be served on the local authority, together with evidence of service of it.*

7. *In relation to the civil proceedings please provide evidence that the tenant is aware of the rent arrears and has delayed or refused to repay them.*

4. On 11 May 2021, the Applicant's Representative responded to the request for further information. However, the required information was not provided.
5. On 19 May 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:

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:

Further information is required to enable your application to be considered, as per the letter which was sent to you on 29 April 2021. You have not provided any substantive response to the 6 points (points 1 to 6) which were raised in relation to the eviction application and the deadline for the response has passed. The deadline will be extended to [7 days]. If you do not provide the information it is likely that your application for eviction will be rejected. The tribunal cannot contact you to discuss matters or provide advice to you as it is a neutral judicial body. If you require advice in relation to your application you should contact a solicitor or housing adviser.

Please reply to this office with the necessary information by 2 June 2021. If we do not hear from you within this time, the President may decide to reject the application.

If you require any further information, please contact us, quoting your reference number.

6. The Applicant's Representative failed to respond to the request for further information.
7. On 16 June 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 65 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 65 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 65. The Applicant's Representative has only partially responded to the tribunal's first information request and failed to respond to the following further information request. 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.

Legal Member
16 June 2021