



**DECISION AND STATEMENT OF REASONS OF MARTIN J.MCALLISTER  
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 Rules of Procedure 2017 ("the Procedural Rules")

in connection with

29 A William Street, Dunoon, Argyll, PA23 7JH ("the Property")

**Case Reference:** FTS/HPC/EV/22/1224

Burns Properties ("**the Applicant**")

Rentahome Scotland Ltd ("**the Applicant's Representative**")

Melissa Robertson ("**the Respondent**")

1. An application, dated 27<sup>th</sup> April 2022, was received from the Applicant's Representative by the First –tier Tribunal for Scotland, Housing and Property Chamber (the FTT). The application was made under Rule 65 of the Procedural Rules
2. The Application stated that recovery of the Property was sought the Landlord wants to move into the Property under Ground 1 of Part I of Schedule 5 of the Housing (Scotland) Act 1988 ("the 1988 Act.").
3. On 26<sup>th</sup> June 2022 the FTT wrote to the Applicant's Representative on a number of matters and sought a response. A response was received which did

not fully address the matters raised by the FTT.

4. On 29<sup>th</sup> July 2022, the FTT sent a further letter to the Applicant's Representative seeking responses to the following matters:

4.1 Clarity with regard to the identity of the Applicant.

4.2 Evidence of service of the Notice to Quit.

4.3 Proof that the AT6 had been served.

4.4 Confirmation of the Applicant's position on whether or not the appropriate notice had been given to the Respondent prior to commencement of the tenancy and, if not, whether the FTT was being asked to dispense with such notice.

4.5 Provision of a copy of the relevant notice under the Homelessness etc. (Scotland) Act 2003 and proof of service.

5. No response was received from the Applicant's Representative and a reminder letter was sent by the FTT on 16<sup>th</sup> September 2022. In that letter, the Applicant's Representative was advised that, in the absence of a response, the President may consider rejecting the application.

## **DECISION**

6. I considered the application in terms of Rules 5 and 8 of the Procedural Rules.

Rule 5 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 lodgement 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 required manner for lodgement.

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."*

**7. After consideration of the application, the attachments and correspondence from the Applicant, I consider that the application should be rejected in terms of Rule 8 (c) of the Rules of Procedure on the basis as the Tribunal**

has good reason to believe that it would not be appropriate to accept the application.

## **REASONS FOR DECISION**

8. The Applicant's Representative was asked for further information which was not provided. The information requested was essential for the Tribunal to make a decision as to whether or not to admit the application for determination. On the face of it, no notice had been given to the Respondent and no Section 11 Notice had been served. In addition, it was not clear what title the Applicant had to raise the application since the Applicant's Representative had not clarified the status of the Applicant.
9. The Applicant had failed to provide information having been required to do so in terms of Rule 5 (3).

## **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.**

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27<sup>th</sup> October 2022