

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**DECISION AND STATEMENT OF REASONS OF MELANIE BARBOUR, 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**

**Case reference FTS/HPC/EV/21/2475**

**Parties**

**Mr Duncan Vaux (Applicant)**

**Mr Darren Knox (Respondent)**

**Happy Lets Ltd (Applicant's Representative)**

**49 Wellington Street, Wishaw, ML2 7EU (Property)**

1. On 12 October 2021, an application was received from the applicant. The application was made under Rule 109 of the Procedural Rules, being an application to recover possession of a private residential tenancy.
2. By letters from the Tribunal dated 9 November and 3 December both 2021, the Tribunal requested further information in its letter stating :-

*"1. The application is made on Ground 12. You have not submitted a Notice to Leave for this ground or provided detailed information on the application as to which rent arrears you are relying on. Please submit the correct Notice to Leave as the application without this is incomplete.*

*2. Please provide evidence of the compliance of the landlord with the preactions requirements.*

*3. Please note that the Notice to Leave you have submitted relates to Ground 10 but there was no application submitted on this ground. The notice is now out of date. Because it expired more than 6 months ago an application on that ground would have to be rejected in terms of S 55 of the Private Housing (Tenancies) (Scotland) Act 2016."*

3. As at 30 December 2021 the information referred to in the preceding paragraph remained outstanding; and the applicant had failed to provide the further information requested.

## **DECISION**

4. I considered the application in terms of Rule 8 of the Procedural 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."

5. After consideration of the application, the attachments and correspondence from the applicant, I consider 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.

## **REASONS FOR DECISION**

6. The Tribunal has requested further information to support this application from the applicant. The applicant has not provided the information requested.
7. I consider that the applicant's failure to provide this information to support the application, as requested by the Tribunal, gives me good reason to believe that it would not be appropriate to accept the application in circumstances where the applicant is apparently unable to do so in order to progress this application.
8. Accordingly, for this reason, the application must be rejected upon 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**

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.

# M Barbour

Melanie Barbour  
Legal Member  
30 December 2021