



**DECISION AND STATEMENT OF REASONS OF JOSEPHINE BONNAR,
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 Procedure Rules")**

in connection with

32 Highbury Crescent, West Kilbride ("the Property")

Case Reference: FTS/HPC/CV/22/2470

Linda Hill, 1 Heritage Park, West Kilbride ("the Applicant")

Christopher Callaghan, Address Unknown ("the Respondent")

1. The Applicant lodged an application in terms of Rule 109 of the Procedure Rules. In the application form, the Applicant states that she is seeking a payment order for unpaid rent and damage to the let property.
2. The Tribunal issued requests for further information on 22 August 2022 and 10 October 2022. The Applicant was asked to confirm if the application should proceed under Rule 111, civil proceedings in relation to private residential tenancies, rather than Rule 109, which relates to eviction applications. The Applicant was also notified that she had to provide evidence in support of the application and an address for the Respondent, or make an application for service by advertisement. The Applicant responded to the second letter, stating that she wished to proceed but did not have an address. A further request was issued, directing the Applicant to provide the required information and documents, or the application may be rejected. No response has been received.

Decision

3. After consideration of the application the Legal Member considers that the application should be rejected in terms of Rule 8(1)(c) which states that an application must be rejected if the Tribunal has “ good reason to believe that it would not be appropriate to accept the application.”

Reasons for Decision

4. The Applicant submitted an application for an order for payment. However, the application was submitted in terms of Rule 109 and not Rule 111. The Applicant has been given the opportunity to amend the application and has failed to do so. Both Rules 111 and 109, require an Applicant to provide an address for the Respondent. If this cannot be provided, an application for service by advertisement must be lodged, in terms of Rule 5(4). Despite three requests, the Applicant has failed to provide an address or make this application. The Applicant has also failed to provide evidence in support of her claim for the cost of re-instating the property.
5. The Applicant has failed to comply with Rules 5, 109 and 111 and the application does not meet the mandatory requirements for lodgement. As a result, it cannot be accepted. The application is rejected on that basis.

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.

Josephine Bonnar, Legal Member
12 December 2022