



## DECISION AND STATEMENT OF REASONS OF THE FIRST-TIER TRIBUNAL FOR SCOTLAND

Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 “the Rules”)

In respect of

22 William Street, East Wemyss, Fife, KY1 4PG

**Case Reference: FTS/HPC/EV18/2516**

At Glasgow on 5 March 2019, Andrew McLaughlin, Legal Member of the First-Tier Tribunal with delegated powers of the Chamber President, rejected the above application in terms of rule 8 of the Rules for the following reasons:

1. In this Application the Applicant seeks an eviction order under Rule 109 in respect of a Private Residential Tenancy as per Section 51 (1) of the Private Housing (Tenancies) (Scotland Act 2016.
2. On 10 October 2018, the Tribunal requested further information from the Applicant’s Representative, a Mr Graham Morris, regarding supplying proof of service of the notice to leave on the Respondent. The Tribunal also asked Mr Morris to confirm the Respondent’s current address as the Application disclosed that the Respondent was no longer living in the property in respect of which an Eviction order was sought.
3. On 13 October 2018, Mr Morris emailed the Tribunal saying, amongst other things, that the Applicant did not have a current address for the Respondent.
4. On 5 November 2018, the Tribunal wrote to Mr Morris and advised that the Applicant would need to supply the Tribunal with the address of the Respondent before it could proceed. The Tribunal also stated that if the Applicant did not know the Respondent’s current address, they may wish to consider employing tracing agents.
5. On 6 November 2018, Mr Morris emailed the Tribunal stating *“This really is getting embarrassing now.. We will NOT be employing tracing agents to locate someone who has abandoned the property...its (sic) simple, you need to serve documents to the rental property. I now wish to make a complaint on the length of time it is taking between correspondence, the lack of understanding the tribunal seems to have on how tenancies work on abandonment and your lack of care for rightfully returning (sic) the property to its owners (sic) possession. Again*

*this idea was sold to landlords as its (sic) easier and quicker. This is simply untrue and already is in need of major overhaul."*

6. On 18 December 2018, the Tribunal wrote back to the Applicant referring the Applicant to Rule 6 which obliges the Tribunal to serve any formal communication on the proper address of the person and also Rule 24 which provides that the Tribunal must give each party reasonable notice of the date, time and place of a Hearing. On that occasion the Tribunal did not address the inappropriate and confrontational content of Mr Morris' email of 6 November 2019.
7. On 18 December 2019, Mr Morris then sent the Tribunal an email that contained the following: "*Why did it take so long to get such a pathetic response? This system is useless, absolutely useless...To think the tax payer foots the bill for this absolute shambles. Everyone in their (sic) should hang their heads in shame.*"
8. On 10 January 2019, the Tribunal then wrote to Mr Morris stating that the Applicant may wish to consider the impact of what was then to be forthcoming amendments to the Regulations which govern the Tribunal's powers regarding service. The Applicant was given until 24 January 2019 to respond. On that occasion the Tribunal also did not address the content of Mr Morris' emails of 6 November and 18 December 2018.
9. As the Applicant has failed to adequately respond to the Tribunal and to provide the Tribunal with the requested information, the Application is rejected in terms of Tribunal Rule 8 (C) which allows for an Application to be rejected by a Legal Member of the Tribunal on behalf of the Chamber President if "*they have good reason to believe that it would not be appropriate to accept the application.*" Accordingly I consider that it is not appropriate to accept the application.
- 10 I also observe that the tone and content of Mr Morris' email correspondence with the Tribunal is entirely inappropriate. To write in such terms to the judicial body before whom you, as a Representative, are seeking to bring an Application is entirely inappropriate. The Tribunal will not tolerate being corresponded with in such a manner and which may, in analogous circumstances, result in an Application being rejected outright in terms of Rule 8 (C). Had this Application proceeded, the Tribunal may well have considered prohibiting Mr Morris from acting as Representative, as per Tribunal Rule 10 (5) (a) on account of his correspondence with the Tribunal questioning his suitability to act as a Representative.

**NOTE: What you should do now.**

If you accept this decision, there is no need to reply.

If you disagree with this decision you should note the following:

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 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.

Mr Andrew McLaughlin

Legal Member

5 March 2019