



**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**

**24/6 Peveril Terrace, Edinburgh ("the Property")**

**Case Reference: FTS/HPC/EV/23/1066**

**AHA Units 2 Let Ltd, Poltonhall Industrial Estate, Poltonhall Road, Lasswade  
("the Applicant")**

**Louvain Arnot, 24/6 Peveril Terrace, Edinburgh ("the Respondent")**

1. The Applicant seeks an order for possession in in terms of Rule 65 of the Procedure Rules and Section 18 of the Housing (Scotland) Act 1988. A Notice to leave was lodged with the application.
2. The Tribunal issued a request for further information and documents. The Applicant was advised that, if the application related to a private residential tenancy, it should be amended to Rule 109 and Section 51 of the Private Housing Tenancies (Scotland) Act 2016 ("the 2016 Act"). Alternatively, the Applicant should provide a copy of a Notice to Quit and AT6 notice which had been served on the Respondent, with evidence of service. The Applicant was also asked to provide a copy of the tenancy agreement, evidence in support of a relevant eviction ground and a copy of the section 11 notice sent to the Local Authority. The Applicant initially requested some additional time to respond to the request. No further response was received. The Tribunal issued a

reminder, directing the Applicant to provide a response, or the application may be rejected. The Applicant has failed to provide a response.

## **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 possession in terms of Rule 65 of the Rules. However, the application was accompanied by a Notice to leave and appears to be based on ground 5 of Schedule 3 of the Private Housing Tenancies (Scotland) Act 2016. There is no equivalent ground in the 1988 Act. The Applicant has been offered the opportunity to amend the application to the correct Rule, if the tenancy is a PRT, and has failed to do so. The Applicant has also failed to provide evidence in support of a relevant eviction grounds, a section 11 notice or a copy of the tenancy agreement , all of which are required in terms of both Rules 65 and 109. The Applicant has also failed to provide the notices required in connection with a Rule 65 application.
5. Rule 5 of the Procedure Rules states that 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.....65 to 70.....or 105 to 111, as appropriate”. In terms of Rules 5(2) and (3) the Chamber President or a Member with delegated powers must assess whether the “mandatory requirements for lodgement have been met” and “may request further documents”. Rule 65 requires an Applicant to lodge a copy of the tenancy agreement, Notice to Quit, AT6 notice, a copy of the Section 11 Notice sent to the Local Authority and evidence in support of the

eviction ground. . The Applicant did not provide these documents with the application and has failed to provide them when directed to do so by the Tribunal in terms of Rule 5(3). .

6. As the Applicant has failed to comply with Rules 5 and 65 of the Procedure Rules, the Legal Member is satisfied that there is good reason to believe that it would not be appropriate to accept the application. 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.**

J Bonnar

Josephine Bonnar, Legal Member  
31 July 2023