



**DECISION AND STATEMENT OF REASONS OF MS. SUSANNE L. M. TANNER Q.C.,
LEGAL MEMBER OF THE FIRST-TIER TRIBUNAL WITH DELEGATED POWERS OF
THE CHAMBER PRESIDENT**

**Under Schedule 1, Rule 8 of The First-tier Tribunal for Scotland Housing and
Property Chamber (Procedure) Regulations 2017, as amended ("the 2017 Rules")**

in connection with

Ref: FTS/HPC/CV/21/0201

Re: Flat 10, 119 Quarry Street, Hamilton, ML3 7DR ("the Property")

Mr Paul Guisti, PO Box 26299, Hamilton, ML3 3AQ ("the Applicant")

**Wigwam Letting & Property, PO Box 26299, Hamilton, ML3 3AQ ("the Applicant's
Representative")**

Mr Mark Guilfoyle, 1 Moss side, Lesmahagow, ML11 0AU ("the Respondent")

DECISION

**It was determined by the Legal Member acting under the delegated powers of the
Chamber President, in terms of 8 of the 2017 Rules that there was a 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, therefore the Application must be
rejected in terms of Rule 8(1).**

REASONS

- 1. On 27 January 2021, an application was received from the Applicant's Representative
("the Application"). The Application was made under Rule 111 of the 2017 Rules, being
an application for civil proceedings in relation to a private residential tenancy. The
Applicant's representative attached a number of documents.**
- 2. An application made in terms of Rule 111 must-**

a. State-

- i. The name and address of the person;
- ii. The name and address of any other party; and
- iii. The reason for making the application;

b. be accompanied by-

- i. Evidence to support the application; and
- ii. A copy of any relevant document; and

c. Be signed and dated by the person.

3. The Applicant's Representative submitted an incomplete application as it was not accompanied by all of the required documents.

4. On 5 March 2021, the Application was considered by a Legal Member with the delegated powers of the Chamber President and a letter was sent to the Applicant's Representative, as follows:

"Before a decision can be made, we need you to provide us with the following:

Please provide a copy of the tenancy agreement and a schedule detailing the rent arrears and how they have been calculated.

Please reply to this office with the necessary information by 19 March 2021. If we do not hear from you within this time, the President may decide to reject the application."

5. The Applicant's Representative failed to respond to the request for further information.

6. On 7 April 2021, a further request for the said information was sent to the Applicant, in the following terms:

"Before a decision can be made, we need you to provide us with the following:

Please provide the information requested in the Tribunal's letter to you of 5 March 2021.

Please reply to this office with the necessary information by 21 April 2021. If we do not hear from you within this time, the President may decide to reject the application."

7. On 30 April 2021, the Application was considered by a legal member acting under the delegated powers of the Chamber President, in terms of Rules 5, 8 and 103 of the 2017 Rules.

8. 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."

9. After consideration of the Application, the attachments and the repeated further information requests, it was determined that the requirements for making an application under Rule 111 have not been met. At the time at which it was made, the Application did not meet the requirements for making an Application in terms of Rule 111. The Applicant's Representative has failed to respond to the tribunal's further information requests. The Applicant's Representative has not provided the required information within the stipulated timescales. For those reasons, it was determined that there was a 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; therefore the Application must be rejected in terms of Rule 8(1).

10. What you should do now

a. If you accept the Legal Member's decision, there is no need to reply.

b. 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.

Susanne Tanner

Ms. Susanne L. M. Tanner Q.C.

Legal Member

30 April 2021