



**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/21/1523

0/2, 151 Royston Road, Glasgow, G21 2QL ("the Property")

**Chiamaka Egwuh and Olisaemeka Egwuh, 2/31, 220 Wallace Street, G5 8AH ("the
Applicants")**

"Bernard", [full name not provided], [address not provided] ("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 24 June 2021, an application was received from the Applicants ("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.**
- 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 Applicants submitted an incomplete application, in particular in that no Respondent surname and no Respondent address was included in the application. A Service by Advertisement application was submitted with the application, which was also incomplete and insufficient supporting evidence was provided.
4. On 12 July 2021, the Application in terms of Rule 111 was considered by a legal member acting with the delegated power of the Chamber President and a letter was sent to the Applicants as follows:

“... I refer to your recent application which has been referred to the Chamber President for consideration.

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

1. As previously advised, the applications cannot proceed without a full name for the Respondent. Whether the application is served on the Respondent in person or by advertisement on the website, a full name is required. The property appears to be owned by Prestige Castle Limited. A copy of the title sheet is attached. However, the Tribunal cannot comment on whether this company is your landlord and you must make your own enquiries. Please provide a full name for the landlord or the application may be rejected.

2. You have requested service by advertisement. You must provide a trace report from a Sheriff Officer or tracing agent for this to be considered. You will require a full name in order to obtain such a report. ...

Please reply to this office with the necessary information by 26 July 2021. If we do not hear from you within this time, the President may decide to reject the application.”

5. The Applicants failed to respond to the request for further information.
6. On 10 August 2021, the Application was considered by a legal member of the

tribunal acting under the delegated powers of the Chamber President, and a letter was sent to the Applicant in the following terms:

“Your application has been reconsidered by a legal member of the Housing and Property Chamber who notes:

You have not responded to our letter requesting further information for both above applications dated 12th July a copy of which we enclose.

Can you please respond to this letter as otherwise we cannot proceed with either application.

... Please let us have your response to our letter of 12th July within 14 days (24 August 2021) failing which your applications may be rejected.”

7. A copy of the letter of 12 July 2021 was enclosed with the above email.
8. The Applicants did not respond to the request for further information within the stipulated timescale.
9. On 9 September 2021, the Application was considered by a legal member of the tribunal acting under the delegated powers of the Chamber President, in terms of Rules 5, 8 and 111 of the 2017 Rules.
10. 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."

11. After consideration of the Application, the attachments, the repeated further information requests and the Applicants' repeated failures to respond, 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. In particular, the Applicants did not provide a name for the Respondent or an address for the Respondent, which failing a complete application for service by advertisement. The Applicants have failed to respond to the tribunal's further information requests. The Applicant 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).

12. 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.



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

Legal Member

9 September 2021