



**DECISION AND STATEMENT OF REASONS OF MARTIN J. MCALLISTER,
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 Rules")**

in connection with

60 Langcroft Avenue, Prestwick, KA9 2LY ("the Property")

Case Reference: FTS/HPC/EV/21/2436

Grace Welsh, 19 Landsdowne Road, Ayr, KY8 8LS ("the Landlord")

1ST Legal Ltd, 62 Fort Street, Ayr, KA7 1DE ("the Landlord's Representative")

Stephen Sinclair, 60 Langcroft Avenue, Prestwick, KA9 2LY ("the Tenant")

1. The Landlord's Representative submitted an application to the Tribunal on 8th October 2021 in terms of Section 52 of the Private Housing (Tenancies) (Scotland) Act 2016 and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules"). The application was seeking an order of eviction under Ground 14 Part 3 of Schedule 3 of the 2016 Act. On 8th November 2021 the Tribunal issued a request for further information and documents to the Landlord Representative who was asked to provide evidence of service of a Notice to Leave and further evidence relating to anti- social behavior to support the ground for eviction. No response to the request was received and, on 2nd December 2021, a reminder was sent to the Landlord's Representative and it was advised that, if a response was not received by 12th December 2021, the President may decide to reject the application. No response has been received from the Landlord or the Landlord's Representative.

DECISION

2. The Legal Member considered the application in terms of Rule 5 and Rule 43 of the Chamber Procedural Rules. Rule 5 provides: - (1) 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 43, 47 to 50, 55, 59, 61, 65 to 70, 72, 75 to 91, 93 to 95, 98 to 101, 103 or 105 to 111, as appropriate. (2) The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged in the required manner by assessing whether all mandatory requirements for lodgment have been met. (3) If it is determined that an application has not been lodged in the prescribed manner, the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, may request further documents and the application is to be held to be made on the date that the First-tier Tribunal receives the last of any outstanding documents necessary to meet the requirement manner for lodgment. “

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.” The basis of the decision is that the Applicant has failed to comply with Rules 5 and 103 of the Rules.**

REASONS FOR DECISION

4. The Tenant’s application is in terms of Section 52(1) of the 2016 Act and Rule 109 of the Rules. Section 52(3) states that an application must be accompanied by a copy of a Notice to Leave. Although a copy had been provided, no evidence of its service had been provided.

5. Rule 109(b) (i) of the Rules requires that an application must be accompanied by evidence showing that the eviction ground or grounds has been met. Insufficient evidence has been provided.
6. The Tenant has failed to provide the information and documents required by Rule 109 of the Rules and Section 52 of the 2016 Act. The Tenant has also failed to provide this information and documentation, having been directed to do so in a request for further information by the Tribunal, in terms of Rule 5(3) of the Rules. The Legal Member therefore determines that the application 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
about the appeal procedure can be forwarded to you on request.

Martin J. McAllister, Legal Member
20th December 2021