



**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 Rules")**

in connection with

Tigh-na-Craig, Luss ("the Property")

Case Reference: FTS/HPC/EV/21/1035

Luss Estates Company, Arnburn, Arden, Alexandria ("the Applicant")

Donald Connor, Flat 16, Clyde Court, 123 West Clyde Street, Helensburgh ("the Respondent")

1. The Applicant submitted an application in terms of Rule 111, later amended to Rule 91. The Applicant states that it is seeking an order from the Tribunal transferring the Respondent's tenancy from one property to another and states that the new property is suitable alternative accommodation in terms of Part IV of Schedule 2 of the Rent (Scotland) Act 1984. The Tribunal issued a request for further information to the Applicant. The letter indicated that it appeared that the Applicant was seeking an order for possession of the property in terms of Section 11 of the 1984 Act, to which Part IV of Schedule 2 relates. If this was the case, the Applicant was asked to re-submit the application in terms of the Rule 77 and to provide the information and documentation required by that Rule. No response was received. A further letter was issued to the Applicant, directing them to provide the required information and documents, or the application may be rejected. No response has been received.

DECISION

2. The Legal Member considered the application in terms of Rule 8 of the Chamber Procedural Rules. That Rule 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.”

- 3. After consideration of the application and documents lodged in support of same the Legal Member considers that the application should be rejected on the basis that it is frivolous within the meaning of Rule 8(1)(a) of the Rules.**

Reasons for Decision

4. The Applicant submitted an application for civil proceedings in relation to a tenancy under the Rent (Scotland) Act 1984. However, the application form submitted indicates that the Applicant is seeking to recover possession of the property on the basis that other accommodation will be provided. If so, the application had been submitted in terms of the wrong Rule and the Applicant has failed to provide the information and documents required in terms of Rule 77. The Tribunal has issued two requests for information, directing the Applicant to clarify the position and to re-submit the application if an order for possession is sought. No response has been received.
5. As the application appears to have been submitted under the wrong Rule and the Applicant has failed to provide the required information and documentation or clarification of the basis of the application, the Legal Member determines that the application is misconceived with no prospect of success. 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.

Josephine Bonnar, Legal Member
4 August 2021