



**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**

**Flat 2/1 70 Bulldale Street, Glasgow ("the Property")**

**Case Reference: FTS/HPC/EV/21/2365**

**George Reader, 35 Athole Gardens, Glasgow ("the Applicant")**

**Andrew Wright, Flat 2/1 70 Bulldale Street, Glasgow ("the Respondent")**

1. The Applicant lodged an application with the Tribunal seeking an eviction order in terms of Rule 109 of the Procedure Rules and Section 51 of the Private Housing Tenancies (Scotland) Act 2016.
2. On 28 October 2021, the Tribunal issued a request for further information and documents. The Applicant was asked to provide a replacement application form as the wrong form had been submitted, evidence of service of the Notice to leave, a copy of the section 11 notice sent to the Local Authority and evidence of compliance with the Rent Arrears Pre Action Requirements (Coronavirus) (Scotland) Regulations 2020. The Applicant failed to respond and a reminder was sent on 26 November 2021. The Applicant responded, but did not provide the documents which had been requested. A further letter was issued on 20 December 2021, directing the Applicant to provide the documents or the application may be rejected. A further reminder was issued on 26 January 2022. The Applicant responded and provided a replacement

application form and a copy of an email to the Respondent sending the notice to leave. On 16 February 2022, the Tribunal issued a further letter directing the Applicant to provide the section 11 notice and evidence of compliance with pre action requirements by 2 March 2022 or the application may be rejected. No response has been received.

## **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 eviction order in terms of Rule 109 of the Rules. The Applicant did not lodge a copy of a Section 11 notice with the application. The Tribunal has issued a number of letters to the Applicant directing him to provide certain documents. In particular, the Applicant was directed to provide a copy of the section 11 notice and evidence of compliance with pre-action requirements. The Applicant has failed to respond to several requests for these documents.
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.....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 109 requires an Applicant to lodge a copy of the section 11 “notice given to the local authority”. The Applicant has failed to provide this with the application and has also failed to submit it in response to requests from the Tribunal in terms of Rule 5(3).

6. As the Applicant has failed to comply with Rules 5 and 109 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.

Josephine Bonnar, Legal Member  
14 March 2022