

Housing and Property Chamber  
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF ALASTAIR HOUSTON, 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 Procedural Rules")

in connection with

63c Menzies Road, Aberdeen, AB11 9AS ("the Property")

**Case Reference: FTS/HPC/EV/19/0224**

**DR ROBERT MCINTOSH ("the Applicant")**

**MR ALASDAIR MCINTOSH ("the Respondent")**

1. The application was made under Rule 65 of the Chamber Procedural Rules being an application for an order for possession under Section 18 of the Housing (Scotland) Act 1988. The application was accompanied by supporting documentation including, amongst other things, a copy of the contractual tenancy agreement between the parties, a Notice to Quit and Form AT6.
2. By way of letter and email dated 5 February 2019, a request was made of the for more information in connection with the application. Following a response from the Applicant dated 9 February 2019, where he indicated he was unsure of his legal position, a request for him to confirm if the application was to proceed was sent on 27 February 2019. No response was received and a further request for such confirmation together with all other outstanding information was sent on 26 March 2019.
3. No response was received from the Applicant to the requests dated 27 February 2019 and 26 March 2019.

**DECISION**

4. The circumstances in which an application is to be rejected are governed by 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."

- 5. After consideration of the application, the further information referred to and correspondence from the Applicant's agent, the Legal Member considers that the application should be rejected on the basis that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.**

#### **REASONS FOR DECISION**

6. A request was made for further information from the Applicant, namely up to date address for the Respondent. This request was necessary to allow the application to proceed as the Respondent required to be given notice of the application in terms of the Rules. In the absence of any response by the Applicant, it would not be appropriate to accept the application.

#### **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.

## **A Houston**

Mr Alastair Houston

Legal Member

30 April 2019