



**DECISION AND STATEMENT OF REASONS OF STEVEN QUITHER, 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

5B MAIN STREET, BONHILL, ALEXANDRIA G83 9JU

Case Reference: FTS/HPC/EV/19/0731

HUGH WELLS, 55 ASHTON VIEW, DUMBARTON G82 5DP ("the Applicant")

**AILEEN McMARTIN, 5B MAIN STREET, BONHILL, ALEXANDRIA G83 9JU
("the Respondent")**

DECISION

After consideration of the application, the attachments and correspondence from the applicant, I consider that the application should be rejected on the basis that I have 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.

BACKGROUND

1. On 6 March 2019, an application was received from the Applicant, via his Agents (Philpott Platt Niblett and Wight of Dumbarton). The application was made under Rule 65 of the Procedural Rules being an application for possession on termination of an Assured Tenancy. The following documents were enclosed with the application:-

- Form AT5 dated 5 June 2016;
- (Undated) (Short) Assured Tenancy Agreement, commencing 8 June and continuing initially till 7 December, both 2016;
- Notice to Quit dated 21 November 2018;
- Form AT6 dated 21 November 2018;
- Notice under Section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act"), dated 21 November 2018; and
- Notice under Section 11 of the Homelessness etc Act 2003.

2. Rule 8 of the Procedural Rules 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."

REASONS FOR DECISION

3. The Applicant seeks to recover possession of the property on the basis that Grounds 8, 10 and 12 of Schedule 5 of the 1988 Act have been satisfied. In that respect, the documentation referred to *supra* was lodged with the Application.
4. The Tenancy Agreement between the parties was a Short Assured Tenancy commencing 8 June and continuing initially till 7 December, both 2016. The tenancy clearly continued beyond this original termination date, presumably by tacit relocation and until such time as to be sought to be brought to an end by these proceedings.
5. By letters of 18 March and 24 April, both 2019, to the Applicant's agents, the Tribunal requested further information and clarification in respect of the Notice to Quit, content of AT6 and proof of service of the various notices upon which the application proceeds. Said letters requested a response by, respectively, no later than 1 April and 1 May, both 2019. No response appears to have been received.
6. Accordingly, I consider it is not appropriate to accept the application, which I now reject, on the basis that essential steps necessary for the application to proceed have not been complied with and no satisfactory explanation has been provided in relation to same.

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.

S Quither

SR QUITHER
Legal Member

GLASGOW
20 MAY 2019