



**Decision with Statement of Reasons of Alan Strain, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules")**

**Chamber Ref: FTS/HPC/CV/23/1013**

**Re: Braefoot Cottage, Carlisle Road, Bellside Cleland, ML1 5LR ("the Property")**

### **Parties**

**Mrs Mary Allan (Applicant)**

**Install Solar Limited (Respondent)**

**Tribunal Member:**

**Alan Strain (Legal Member)**

### **Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be rejected on the basis that it would not be appropriate to accept the application in terms of Rule 8(1)(c) of the Procedural Rules.**

### **Background**

1. The application was received by the Tribunal under Rule 111 on 27 March 2023.
2. The application was considered by the Tribunal on 2 August 2023. The Tribunal wrote to the Applicant in the following terms:

"It does not appear that the Tribunal has jurisdiction to deal with this matter. This is because the tenancy does not appear to be a private residential tenancy. A tenancy can only be a PRT if it is let to an individual who occupies the property as their only or principal home. The tenant/Respondent in this case appears to be a company and not the occupier. It therefore appears to be a commercial lease. Please clarify why the Tribunal can consider the matter and why the court proceedings are not ongoing."

The Applicant responded by email of 14 August 2023:

“The last time we were at court (Hamilton sheriff) the judge told us they had no jurisdiction over rent arrears and advised me to refer the case to you.”

### **Reasons for Decision**

3. The Tribunal 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;·*  
*(c) they have good reason to believe that it would not be appropriate to accept the application;*

*(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."*

4. The application seeks to proceed under Rule 111 in respect of rent arrears under a private residential tenancy. The Respondent and tenant is a limited company. A private residential tenancy is defined as:

#### **1. Meaning of private residential tenancy**

(1)A tenancy is a private residential tenancy where—

(a)the tenancy is one under which a property is let to an individual (“the tenant”) as a separate dwelling,

(b)the tenant occupies the property (or any part of it) as the tenant's only or principal home, and

(c)the tenancy is not one which schedule 1 states cannot be a private residential tenancy.

The tenancy is clearly not a private residential tenancy and the Tribunal does not have jurisdiction.

5. The Tribunal considers that it would not be appropriate to accept the application in the circumstances. The application is accordingly rejected.

### **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal 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.**

**7 September 2023**

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**Legal Member/Chair**

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**Date**