



**DECISION AND STATEMENT OF REASONS OF ALISON KELLY, 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

Cosy Den Cottage, Clachanmore, Ardwell, DG9 9PQ

**Case Reference: FTS/HPC/EV/19/0818**

**Ardwell Estates Limited ("the Applicant")**

**Mrs Marguerite Squires ("the Respondent")**

The Application was lodged under Rule 66 of the Chamber Procedural Rules on 13<sup>th</sup> March 2019, being an application by a private landlord for possession in relation to a Short Assured Tenancy. The following documents were enclosed with the Application:

- (i) Copy Tenancy Agreement
- (ii) Copy AT5
- (iii) Copy Notice To Quit
- (iv) Copy Section 33 Notice
- (v) Copy section 11 Notice

The Tenancy Agreement shows that the lease began on Monday 1<sup>st</sup> February 1999, and that the duration of the lease is 6 months. The Notice To Quit and section 33 Notice are both dated 17<sup>th</sup> December 2018 and give a date of termination as 18<sup>th</sup> February 2019.

On 26<sup>th</sup> March 2019 the Tribunal wrote to the Applicant seeking further information, and particular clarification of why they considered 18<sup>th</sup> February 2019 to be an ish date.

The Applicant replied by letter of 28<sup>th</sup> March 2019 confirming that they had mentioned to the Estate Factor (who had served the notices) that they did not appear to run to an ish. They also stated “If this is fatal to the application, please let us know, and we will start again.”

## DECISION

I 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. "*

- 2 After consideration of the application I consider that it should be rejected on the basis that it is not appropriate to accept it in terms of Rule 8(1) (c) of the Procedural Rules.

## **REASONS FOR DECISION**

The Notice To Quit and Section 33 Notice do not bring the tenancy to an end at an ish date, and therefore are incompetent in terms of the Housing (Scotland) Act 1988.

### **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.

Miss Alison Kelly  
Legal Member  
8<sup>th</sup> April 2019

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