

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF SHIRLEY EVANS, 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

8G Hume Street, Montrose, DD10 8JD

**Case Reference: FTS/HPC/CV/19/2659**

**PAUL AND GEMMA BERTOLOTTO ("the Applicants")**

**STEVI MASSON ("the Respondents")**

1. On 26 August 2019 an application was received from the applicants via their agent. The application was made under Rule 111 of the Rules being an application for civil proceedings in relation to a private residential tenancy. This appears to be an error on behalf of the agent as the tenancy included with the application is a short assured tenancy and therefore the application could have proceeded under Rule 70 being an application for civil proceedings in relation to an assured tenancy. Attachments were provided with the application form to support the application and these attachments included a copy of the short assured tenancy agreement with AT5 and a copy screen shot showing rent arrears of £1008.49. The application stated the Respondent had left no forwarding address.

**DECISION**

2. The Legal Member 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.”*

- 3. After consideration of the application and the attachments the Legal Member considers that the application should be rejected on the basis that there is good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Rules.**

#### **Reasons for Decision**

4. On 11 September 2019 the Tribunal wrote to the applicants' agent requesting confirmation as to the steps taken to trace the Respondent's present whereabouts and whether the circumstances the applicants were seeking service by advertisement. The agent was asked to respond to the Tribunal with the information requested by 25 September 2019. The agent has not responded to the Tribunal.
5. In the circumstances, it appears to the Legal Member that as the applicants' agent's has not provided the Tribunal with information reasonably requested by the Tribunal, it is not appropriate to accept the application in terms of Rule 8(1)(c). The agent has not shown that he wants to proceed with the application by providing the information requested. Rule 8(1)(c) allows for an application to be rejected by a Legal Member of the Tribunal on behalf of the Chamber President if *“they have good reason to believe that it would not be appropriate to accept the application.”* The application is therefore rejected in all the circumstances.

#### **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.

~~Shirley Evans~~  
Legal Member  
15 October 2019