

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



**DECISION AND STATEMENT OF REASONS OF 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

**81 Butters Road, Dundee, DD2 4LP**

**Case Reference: FTS/HPC/CV/20/0460**

**Mr John Hume (Applicant)**

**Miss Audrey Robbins (Respondent)**

1. On 10 February 2020, an application was received from the applicant. The application was made under Rule 111 of the Procedural Rules, being an application for civil proceedings in relation to a private residential tenancy under the Private Housing (Tenancies) (Scotland) Act 2016. The following documents were enclosed with the application:-
  - a. Tenancy Agreement
  - b. Rent Ledger
2. By letters from the Tribunal dated 12 February, 1 May and 7 July all 2020 the Tribunal requested further information regarding the following matters,
  - The application is in the name of John Hume however the title deeds for the property showed it was owned by Kerry Lee Busfield, confirmation was sought as to the basis on which the applicant was entitled to let the property.
  - There was no address for the respondent, in order to grant a service by advertisement application, the applicant was requested to provide a report by a tracing agent or sheriff officer showing what attempts had been made to obtain an address for the respondent.
3. The applicant failed to provide the further information requested.

**DECISION**

4. I considered the application in terms of Rule 8 of the 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 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.

## **REASONS FOR DECISION**

6. The Tribunal has requested further information to support the application from the applicants. This information and evidence has not been provided. The applicant has not provided (1) evidence that he was entitled to let the property as landlord (what was provided was an email from the owner authorising the applicant to act on her behalf), even if this was sufficient authority for the applicant to grant a tenancy agreement in his name, it does not provide a basis on which he as an agent is authorised to seek an order for payment in his name; and (2) any information from a sheriff officer or tracing agent confirming that attempts had been made to ascertain the address of the respondent.
7. I consider that the applicant's failure to provide information and evidence to support the application, as requested by the Tribunal, gives me good reason to believe that it would not be appropriate to accept the application in circumstances where the applicants are apparently unable to do so in order to progress this application.
8. Accordingly, for this reason, this application must be rejected upon 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.

## **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 handwritten signature in dark ink is visible above a solid black rectangular redaction box. The signature appears to be 'Melanie Barbour'.

Melanie Barbour  
Legal Member  
26 August 2020