



**Decision with Statement of Reasons of H Forbes, 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/EV/23/1436**

**Re: 36 Bute Street, Coatbridge, ML5 4HB ("the Property")**

**Parties:**

**Michael Brady ("the Applicant")**

**Alison Martin ("the Respondent")**

**Tribunal Member:**

**Ms H Forbes (Legal Member)**

**Decision**

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

**Background**

1. The application was received by the Tribunal under Rule 109 on 5<sup>th</sup> May 2023, with associated documents.
2. The application was considered by a legal member of the Tribunal, and by email dated 6<sup>th</sup> June 2023, the following information was requested from the Applicant:
  - 1) A written copy of the private residential tenancy agreement.
  - 2) Evidence of service of the notice to leave on the tenant.
  - 3) A copy of the section 11 notice to the local authority.
  - 4) Proof of sending the section 11 notice to the local authority.

5) Evidence of your intention to sell, for example a letter of engagement from a marketing agent concerning the sale of the property or a recently prepared document required for marketing purposes.

6) The property is owned in joint names by you and Sarah Broughall. Please confirm if you wish to add her as joint applicant or alternatively provide written confirmation from her that she is content for you to bring the application on her behalf

7) Confirmation of whether you seek to rely solely on ground 1A, or on both ground 1A and ground 1.

Please reply to this office with the necessary information by 20 June 2023. If we do not hear from you within this time, the President may decide to reject the application

No response was received.

3. The application was considered by a legal member of the Tribunal and a further opportunity was afforded to provide the information by email dated 25<sup>th</sup> July 2023 with a response requested within 14 days, failing which, the application may be rejected. No response was received.

4. The application was considered by a legal member on 8<sup>th</sup> August 2023.

### **Reasons for Decision**

5. 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."*

6. The Tribunal has requested further information from the Applicant in order to consider whether or not the application must be rejected. The Applicant has

failed to respond in full to the Tribunal's request for further information and documents.

7. In particular, the Applicant has failed to provide:
  - (i) A copy of the notice required under section 56 of The Private Housing (Tenancies) (Scotland) Act 2016, and Rule 109(b)(ii).
  - (ii) Evidence showing that the eviction ground or grounds has been met, as required by Rule 109(b)(i).
8. It would not be appropriate for the Tribunal to accept an application which is incomplete and does not meet the lodging requirements in terms of Rule 109.
9. 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.**

# H Forbes

Legal Member/Chair

Date 28<sup>th</sup> August 2023