



**DECISION AND STATEMENT OF REASONS OF JOSEPHINE BONNAR,
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 Procedure Rules")**

in connection with

Flat 2/1 58 Ann Street, Greenock ("the Property")

Case Reference: FTS/HPC/20/1845

Marie Annetta Dowden, 38 Alverstone Road, Whippingham ("the Applicant")

Alistair Hair, Flat 2/1 58 Ann Street, Greenock ("the Respondent")

1. On 31 August 2020, the Applicant lodged an application seeking a payment order in connection with arrears of rent. A related application for an eviction order was also submitted, but later withdrawn. The Tribunal issued a request for further information, asking for a replacement rent statement as the document submitted was illegible. The Tribunal also asked the Applicant to clarify the position regarding her right, title and interest to make the application, as she was not the owner of the property. In her response the Applicant said that the property is owned by her son, for whom she managed the property. A further letter was issued asking the Applicant if she wished to amend the application to the correct name, or to confirm in what capacity she could pursue the application and to provide written authorisation from the owner of the property. The Applicant has failed to provide a response to this request although several further letters have been issued directing her to provide the information and mandate, failing which the application may be rejected.

DECISION

2. The Legal Member considered the application in terms of Rules 5 and 8 of the Chamber Procedural Rules. Rule 5(3) provides:-

(3) If it is determined that an application has not been lodged in the prescribed manner, the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, may request further documents and the application is to be held to be made on the date that the First-tier Tribunal receives the last of any outstanding documents necessary to meet the requirement manner for lodgment.

- 3. After consideration of the application the Legal Member considers that the application should be rejected in terms of Rule 8(1)(c) which states that an application must be rejected if the Tribunal has “ good reason to believe that it would not be appropriate to accept the application.”**

Reasons for Decision

4. The Applicant submitted an application for a payment order in terms of Rule 111 of the Rules. The Applicant is not the registered owner of the property. She has failed to provide the Tribunal with information and documentation which establishes that she is entitled to seek a payment order against the Respondent. Numerous letters have been issued directing the Applicant to provide the information and documentation in terms of Rule 5. She has failed to do so.
5. The Legal Member is therefore satisfied that there is good reason to believe that it would not be appropriate to accept the application. The application is rejected on that basis.

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.

4 August 2021