



**DECISION AND STATEMENT OF REASONS OF JAMES BAULD, 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

**Case reference FTS/HPC/EV/22/1775**

**Parties**

**Amjid Mahmood (Applicant)**

**Muhammad Arshad (Respondent)**

**Apex Services (Applicant's Representative)**

**Flat 1/2 , 11 Keir Street Glasgow, G41 2NP (House)**

1. The application dated 8 June 2022 was made under Rule 109 of the Procedural Rules being an application for an eviction order in connection with a private residential tenancy. The application was accompanied by supporting documentation
2. By way of letter and email dated 27 June 2022, a request for further information was sent to the Applicant.
3. A second request for further information was sent to the applicant by way of email dated 8 August 2022. This request indicated that the tribunal were concerned that the application had been lodged outwith the time limit set in section 55 of the Private Housing (Tenancies) (Scotland) Act 2016 and was thus incompetent and should not be accepted . By email dated 18 August the applicant's representative responded confirming they accepted their application had been lodged four days late
4. A further request was sent to the applicant's representative on 16 September

2022. The representative was asked to invited to advise the tribunal on what basis they believed the application could proceed given the specific terms of section 55 of the 2016 Act which states that a landlord may not make an application to the tribunal for an eviction order against the tenant using a copy of a Notice to Leave (NTL) more than six months after the day on which the relevant notice period in that NTL expired. This request also advised that the application may be rejected should the information not be provided.

5. No response has been received to the request dated 16 September 2022

## **DECISION**

6. The circumstances in which an application is to be rejected are governed by 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."*

- 7. After consideration of the application, the further information referred to and the lack of correspondence from the Applicant or the Applicant's agent, the Legal Member considers that the application should be rejected on the basis 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**

8. Two requests were made for further information from the Applicant. This additional information requested was necessary to allow the application to proceed. The applicant was informed that the additional information was essential to allow further progress of the application. They were informed that the tribunal believed the application was incompetent and were warned that failure to respond may lead to the application being rejected. In the absence of any response by the Applicant, it would not be appropriate to accept the application and accordingly it is rejected

### **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.

# J Bauld

Mr James Bauld

Legal Member

9 November 2022