



**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

26 Bathville Road, Kilburnie ("the Property")

Case Reference: FTS/HPC/EV/22/4382

Paul Marchetti, 86 Loudon Road, Newmains ("the Applicant")

Jane Thomson, 26 Bathville Road, Kilburnie ("the Respondent")

1. The Applicant seeks an eviction order in terms of Rule 109 of the Procedure Rules and Section 51 of the Private Housing Tenancies (Scotland) Act 2016. A copy of a Notice to leave and Section 11 notice were submitted with the application.
2. On 28 December 2022, the Tribunal issued a request for further information and documents. The Applicant was directed to provide evidence of service of the Notice to leave on the Respondent, evidence that the section 11 notice had been sent to the Local Authority and evidence in support of the eviction ground. The Applicant was notified that if he failed to respond by a specified date, the application might be rejected. The Applicant did not respond. Two further requests were issued, on 1 February and 7 March 2023, directing the Applicant to provide a response or the application may be rejected. No response has been received

Decision

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 an eviction order in terms of Rule 109 of the Rules. The Applicant did not lodge evidence in support of the eviction grounds, as required by Rule 109(b)(i). The Tribunal has issued three letters to the Applicant directing him to provide this evidence, together with evidence of service of the Notices, but no response has been received.
5. Rule 5 of the Procedure Rules states that an application “is held to have been made on the date that it is lodged if, on that date, it is lodged in the manner as set out in rules.....105 to 111, as appropriate”. In terms of Rules 5(2) and (3) the Chamber President or a Member with delegated powers must assess whether the “mandatory requirements for lodgement have been met” and “may request further documents”. Rule 109 requires an Applicant to lodge evidence in support of the eviction ground. . The Applicant did not submit this with the application or in response to three requests from the Tribunal. The Applicant has also failed to provide other documents requested by the Tribunal in terms of Rule 5(3).
6. As the Applicant has failed to comply with Rules 5 and 109 of the Procedure Rules, the Legal Member is 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.

Josephine Bonnar

Josephine Bonnar, Legal Member
13 April 2023