



**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

41 Glamis Road, Kirriemuir, Angus ("the Property")

Case Reference: FTS/HPC/EV/23/0361

**Michael Bathgate, 33 Yorkville Green, SW, Calgary, Alberta, Canada ("the
Applicant")**

Sandra Provan, 41 Glamis Road, Kirriemuir, Angus ("the Respondent")

1. The Applicant seeks an order for possession in in terms of Rule 66 of the Procedure Rules and Section 18 of the Housing (Scotland) Act 1988.
2. The Tribunal issued various requests for information and documents. The Applicant was directed to provide a complete copy of the tenancy agreement, the AT5 Notice and evidence of service of the section 11 Notice and Section 33 Notice. The requests were issued by email on 3 March and 19 April 2023, to the email address specified in the application form. Thereafter, reminders were sent by ordinary post on 14 June and 9 August 2023 and by international signed for delivery on 9 August 2023. The Applicant has not responded to any of the letters or emails.

Decision

3. After consideration of the application the Legal Member considers that the application should be rejected in terms of Rule 8(1)(c) of the Tribunal Procedure Rules 2017 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. 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.....65 to 70..., 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 66 requires an Applicant to lodge a copy of the tenancy agreement (or as much information about the tenancy as can be provided), the AT5 notice, the notice to quit and section 33 notice which have been served on the tenant and a copy of the Section 11 Notice sent to the Local Authority. The Applicant has not provided a complete copy of the tenancy agreement, the AT5 notice or evidence that the Section 33 and Section 11 notices have been served or sent. The Applicant has also failed to provide these documents in response to requests for further information issued in terms of Rule 5(3) of the Procedure Rules.
5. As the Applicant has failed to comply with Rules 5 and 66 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.

J Bonnar

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Josephine Bonnar, Legal Member
5 October 2023