



**DECISION AND STATEMENT OF REASONS OF PETRA HENNIG MCFATRIDGE 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

97 Paradykes Avenue, Loanhead, ED20 9LF ("the property")

Case Reference: FTS/HPC/CV/21/0129

The parties:

Mrs Gail Thomson (" the applicant")

Mr David Brodie, Mrs Denise Brodie ("the respondents")

A BACKGROUND

1. On 19 January 2021 the applicant lodged with the First –tier Tribunal for Scotland, Housing and Property Chamber (the Tribunal) an application made under Rule 70 of the Procedural Rules. The applicant states in part 5c of the application that the applicant is seeking a payment order for outstanding rent arrears. The application was not accompanied by any documentation and stated as the respondents' address in part 3: "*? Waterfall Park, Dalkeith, Midlothian*" with no house number or postcode.
2. On 27 January 2021 the Tribunal wrote to the applicant as follows: "*I refer to your recent application which has been referred to the Chamber President for*

consideration. Before a decision can be made, we need you to provide us with the following:

1. Can you please confirm the full address for the Respondents as this will be required to serve the papers on them. If you do not know the full address then we would recommend you get a trace from a tracing agent or sheriff officer and if they cannot provide one then you can apply for service by advertisement using the form available on the Tribunal's website.

2. Can you please provide a copy of the tenancy agreement and

3. Can you please provide a statement of rent due showing the sum due, sums paid from the date they first become due until the end of the tenancy and a running balance.

Please reply to this office with the necessary information by 10 February 2021. If we do not hear from you within this time, the President may decide to reject the application."

3. As of the date of this decision, 1 March 2021 no reply has been received by the Tribunal.

B DECISION

1. I considered the application in terms of Rule 8 of the 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."

- 2. After consideration of the application, the attachments and correspondence from the Applicant, I consider that the application should be rejected in terms of Rule 8 (c) of the Rules of Procedure on the basis as the Tribunal has good reason to believe that it would not be appropriate to accept the application.**

C RELEVANT LEGISLATION

Application for civil proceedings in relation to an assured tenancy under the 1988 Act

70. Where a person makes any other application to the First-tier Tribunal by virtue of section 16 (First-tier Tribunal's jurisdiction in relation regulated and assured tenancies etc.) of the 2014 Act, the application must—

(a)state—

- (i)the name and address of the person;
- (ii)the name and address of any other party; and
- (iii)the reason for making the application;

(b)be accompanied by—

- (i)evidence to support the application; and
- (ii)a copy of any relevant document; and

(c)be signed and dated by the person.

D REASONS FOR DECISION

1. The Application is made under Rule 70 of the Procedural Rules.
2. Rule 70 (a) (ii) of the Procedural Rules states that such an application must state the name and address of any other party. Here the address for the respondents is clearly incomplete. The applicant was asked to provide an up to date address or if necessary an application for service by advertisement. The Tribunal cannot serve an application unless there is either an address provided or service by advertisement is appropriate.
3. Rule 70 (b) (i) of the Procedural Rules states that such an application must be accompanied by evidence to support the application. No tenancy agreement and rent statement as requested by the Tribunal on 27 January 2021 has been provided.
4. The applicant had been explicitly asked by the Tribunal to provide the above information and further details. The applicant was advised that if this was not forthcoming the application may have to be rejected.
5. The applicant was given the opportunity to provide additional information and documentation to complete the application. The applicant has not answered the request for further information. The applicant not provided the information or the documents requested. The application as it stands does not meet the requirements of an application under Rule 70.
6. It would not be appropriate for the Tribunal to accept an application that does not meet the lodging requirements of the Rule under which the application is being made. The application is thus 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.

P. Henning-McFatridge

Petra Hennig McFatridge

Legal Member

1 March 2021