



**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

**1 Tremaverne Place, Truro, Cornwall TR1 3RS or 3 Kew Lastanen, Tinney Drive, Truro TR1
1FP or 41 St Nicholas Mews, Ayr Road, Flat L, Prestwick KA9 1SY**

Case Reference: FTS/HPC/CV/20/1541

Iain King / possibly Susan King ("the applicant")

Reece Coleman ("the respondents")

1. On 21 July 2020 the First –tier Tribunal for Scotland, Housing and Property Chamber (the Tribunal) received an Application for a payment order under Rule 111 of the Procedural Rules for the sum of £2,107.85 by email from Rentolease Property Management Ltd with the following content: *"Please find attached application and supporting documents for first tier tribunal for the property at St Nicholas Mews, 41L Ayr Road, Prestwick KA9 1SY the tenant that resided at the property was Reece Coleman . We are the managing agent for the property and we act on behalf of the Landlords Mr & Mrs King. Should you require any further information please do not hesitate to contact our office."*
2. The application stated as the applicant Iain King and gave as his address 1 Tremaverne

Place, Truro, Cornwall TR1 3RS. Under “4. Address of the property to which the application relates” the applicant had ticked the box “Same as Applicant”. Iain King had signed the application on 17 July 2020. The Applicant’s representative is stated as Rentolease Property Management.

3. There was no address provided for the Respondent.
4. A separate sheet without any heading gave the following information: Susan King, 3 Kew Lastanen, Tinney Drive, Truro, TR1 1FP and an email address. This sheet appears to have been signed on 21 July 2020 by Susan King.
5. The application was accompanied by a tenancy agreement for a property at 41 St Nicholas Mews, Ayr Road, Flat L, Prestwick KA9 1SY stating as the landlords Iain and Susan King and as the tenant Reece Coleman. Further attached was a rent statement showing £2,107.85 rent arrears.
6. The documents lodged with the application and the application document are referred to for their terms and held to be incorporated herein.
7. On 18 August 2020 the Tribunal wrote to the Applicant. The letter stated: *“Further information is required before your Application can be considered further. 1. Please confirm whether Ms Susan King is a second Applicant. Her details are included in a paper apart with the Application but it does not specify that she is to be a second applicant and she has signed the document after the date of the application. In your cover letter dated 21 July 2020 you stated that you act for both landlords. If it is not intended that she is a Second Applicant, you must submit a properly completed and signed mandate giving her authority to Mr King to make the Application on his own behalf and on behalf of Ms King, as the title deeds show that they are joint registered proprietors and the tenancy agreement is in their joint names as landlords; 2. Please confirm the property address to which the Application relates. In Section 4 – “Address of the Property to which the Application relates”, you have ticked “same address as applicant” box. However, the tenancy agreement refers to “41 St Nicholas Mews, Ayr Road, Flat L, Prestwick, South Ayrshire, KA9 1SY”; and 3. Please provide current address details for the Respondent. If you do not have a current address you may wish to submit a service by advertisement application together with supporting evidence of efforts to trace him. The Form and Guidance can be found on the Housing and Property Chamber website:*

<https://www.housingandpropertychamber.scot/sites/default/files/hpc/SERVICE%20BY%20ADVERTISEMENT%20REQUEST.pdf> . Please provide the required information by 1 September 2020 or your Application may be rejected.

8. No answer was received and no further documentation submitted.

DECISION

9. 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."

10. 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.

Relevant Legislation

Application for civil proceedings in relation to a private residential tenancy

111. Where a person makes any other application to the First-tier Tribunal by virtue of section 71(1) (First-tier Tribunal's jurisdiction) of the 2016 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.

REASONS FOR DECISION

11. The application did not contain an address for the Respondent.

12. No application for service by advertisement has been lodged.

13. The application was ambiguous in respect of the property to which it related.

14. Further information had been requested by the Tribunal on 18 August 2020 with a date by which this was required stated as 1 September 2020. The request had been directed at the Applicant's representative as requested in the cover email.

15. No reply was received.

16. In the absence of details about the respondent the application was incomplete in terms of Rule 111 (a) (ii) of the Procedural Rules because it did not provide an address for the Respondent.

17. There is a clear discrepancy regarding the property to which the application relates. The application clearly states in part 4. that the property is the address provided for the Applicant. It is not clear to which address this relates as there are potentially two Applicants, namely Iain and Susan King, although it is also not clear from the application itself in what capacity Susan King is involved in the matter. They have different addresses.

18. No evidence is provided for any demand of either potential Applicant to the Respondent for the respective addresses provided for either Iain or Susan King. The application does thus not fulfill the lodging criteria of Rule 111 (b) (i) if it relates to either of those addresses.
19. The Applicant was asked to clarify the matter and has not done so. The Tribunal gave a deadline of 1 September 2020 to lodge the Respondent's details, clarify which property the application related to and in what capacity Susan King would be involved in the application. The letter from the Tribunal clearly advised that if the information was not received by 1 September 2020 the application may have to be rejected. No answer was received by the Tribunal by 7 September 2020.
20. Given that the application does not fulfil the lodging criteria for an application of that nature in terms of Rule 111 of the Procedure Rules and in particular does not provide clear details as to who the Applicant is or who the Applicants are, what address the application relates to and most importantly does not provide the address for the Respondent or an application for service by advertisement, it would not be appropriate for the Tribunal to accept the incomplete application.
21. The application it is therefore 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.

Petra Hennig McFatrige
Legal Member
7 September 2020