



**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 Rules")**

in connection with

Flat 1, 68 – 72 Auchmill Road, Bucksburn, Aberdeen (“the Property”)

Case Reference: FTS/HPC/CV/21/1157

Laura Andrew, 37 Laurel Grove, Bonnybridge (“the Applicant”)

Claire Marie Warrender, 42 Hayton Road, Aberdeen (“the Respondent”)

1. By application received on 13 May 2021, the Applicant seeks a payment order in terms of Rule 111 of the Rules and Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016. The application form is undated and does not provide details of the sum being sought and how this sum is calculated. No evidence was lodged in support of part of the claim. The Tribunal issued requests for further information and documents on 24 May, 16 June and 6 July 2021. In these requests the Applicant was directed to provide an amended, dated application form which provided full details of the sum being sought, the basis for the application and evidence to support the claim. The Applicant has failed to lodge an amended form or provide the information and documents requested.

DECISION

2. The Legal Member considered the application in terms of 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.”

3. **After consideration of the application and documents lodged in support of same the Legal Member considers that the application should be rejected on the basis of Rule 8(1)(c) of the Rules.**

Reasons for decision

4. Rule 5 of the Rules provides:-
 - (1) 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 43, 47 to 50, 55, 59, 61, 65 to 70, 72, 75 to 91, 93 to 95, 98 to 101, 103 or 105 to 111, as appropriate.

(2) The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged in the required manner by assessing whether all mandatory requirements for lodgment have been met.

(3) If it is determined that an application has not been lodged in the prescribed manner, the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, may request further documents and the application is to be held to be made on the date that the First-tier Tribunal receives the last of any outstanding documents necessary to meet the requirement manner for lodgment.

5. Rule 111 of the Chamber Procedure Rules that an application must –

(a) state –

(i) the name and address of the person;

(ii) the name and address of any other person; 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**

6. The application lodged does not comply with the provisions of Rule 111 as it is undated, does not provide the reasons for making the application and does not provide appropriate evidence to support the application. On three occasions the Tribunal has directed the Applicant, in terms of Rule 5(3), to provide the required information and documents. She has failed to do so.

7. As the Applicant has failed to comply with Rule 5(3) and Rule 111, and as the application does not meet the mandatory requirements for lodgment required by Rule 5(2), the Legal Member determines that the application cannot be accepted. 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, Legal Member
20 August 2021