



**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

30 Maidland Road, Glasgow ("the Property")

Case Reference: FTS/HPC/EV/23/1795

William Carlton Moore, 34 Maidland Road, Glasgow ("the Applicant")

Benn McGaw, 30 Maidland Road, Glasgow ("the Respondent")

1. The Applicant seeks an order for possession in in terms of Rule 65 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 copy of the tenancy agreement, Notice to Quit, AT6 notice, section 11 notice and evidence that these notices had been served. The Applicant provided a response to some of the requests and submitted an AT6 which had been hand delivered. He stated that there is no written tenancy agreement. He was asked to provide information regarding the tenancy, including the start date, but failed to do so.

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.....or 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 65 requires an Applicant to lodge a copy of the tenancy agreement (or as much information about the tenancy as can be provided), Notice to Quit, AT6 notice, a copy of the Section 11 Notice sent to the Local Authority and evidence in support of the eviction ground. The Applicant has not provided a valid Notice to Quit. He submitted a letter with the application, which calls upon the Respondent to vacate the property on 30 April 2023. However, the notice does not contain the information specified in the Assured Tenancies (Notices to Quit Prescribed Information) (Scotland) Regulations 1988. As a result, it does not comply with Section 112 of the Rent (Scotland) Act 1984. Furthermore, as the Applicant has not provide a copy tenancy agreement or any information as to the start date or term of the tenancy, it is not possible to establish that the date specified in the Notice to Quit is correct. The Applicant has also failed to provide a copy of a Section 11 notice sent to the Local Authority as required by Section 19A of the 1988 Act.
5. As the Applicant has failed to comply with Rules 5 and 65 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.



3 October 2023

