



**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

7 Arran Drive, Paisley ("the Property")

Case Reference: FTS/HPC/EV/21/1100

Paul Coyle, 32 Board Hill, East Kilbride ("the Applicant")

Georgia Fraser, 7 Arran Drive, Paisley ("the Respondent")

1. By application received on 10 May 2021, the Applicant seeks an order for possession of the property in terms of Rule 65 of the Rules and Section 18 Housing (Scotland) Act 1988. A tenancy agreement and rent statement were submitted with the application.
2. On 21 May 2021, the Tribunal issued a request for further information to the Applicant. The Applicant was advised that he was required to provide a copy of the section 11 notice, with evidence of service on the local authority, a copy of the Notice to Quit and AT6 Notice, with evidence of service on the Respondent and to clarify which grounds for possession were being relied upon. No response was received. On 29 June 2021, a further letter was issued, directing the Applicant to provide the documents and information which had been previously requested, and also asking for further information about the tenancy, as the lease did not specify a term. The Applicant was advised that a response was required within 7 days or the application may be rejected. No

response has been received.

DECISION

3. The Legal Member considered the application in terms of Rule 8 and 5 of the Chamber Procedural Rules. Rule 5 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. “

4. Rule 65 of the Rules states that an application must specify “(a) (iv) the possession grounds which apply as set out in Schedule 5 of the 1988 Act” and must be accompanied by “(b) (ii) a copy of the notice served on the tenant by the landlord of intention to raise proceedings for possession of a house let on an assured tenancy; (iii) a copy of the notice to quit served by the landlord on the tenant (if applicable) and (v) a copy of the notice given to the local authority by the landlord under section 11 of the Homelessness (Scotland) Act 2003.”

- 5. After consideration of the application and supporting documentation, the Legal Member considers that the application should be rejected in terms of Rule 8(1)(c), namely that the Legal Member has “good reason to believe**

that it would not be appropriate to accept the application”. The basis for this is that the Applicant has failed to comply with Rules 5 and 65.

Reasons for Decision

6. The Applicant submitted an application for an order for possession in terms of Rule 65 of the Procedural Rules. The Applicant failed to specify the ground for possession ground in the application or provide a valid section 11 notice with evidence of service. The Applicant also failed to submit a Notice to Quit or AT6 Notice with the application. On 21 May and 29 June 2021, the Tribunal wrote to the Applicant, directing the Applicant to provide details of the ground or grounds of possession, a section 11 notice with evidence of service, a Notice to Quit and AT6 Notice. . The Applicant was also directed to address an issue with the tenancy agreement. The Applicant has failed to respond or provide the required information or documents.
7. The Applicant failed to provide information and documentation required in terms of Rule 65 of the Rules. The Applicant has also failed to provide the information and documents, having been directed to do so in requests for further information by the Tribunal, in terms of Rule 5(3) of the Rules. The Legal Member therefore 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
26 July 2021

