



**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

8F Morgan Street, Dundee ("the Property")

Case Reference: FTS/HPC/CV/21/1696

Stevie Johnstone, 8F Morgan Street, Dundee ("the Applicant")

John Nicol, 8 Wallacetown Court, Dundee ("the Respondent")

1. On 14 July 2021, the Applicant lodged an application seeking a payment order for the sum of £3000 under Rule 111 of the Procedure Rules. The Applicant said he was seeking payment of compensation because there had been no heat or hot water at the property for 6 months, the Respondent had failed to notify him that an eviction was proceeding and the tenancy deposit had not been lodged. A related application under Rule 103 of the Procedure Rules was also submitted. The Tribunal issued requests for further information on 29 July, 27 August and 30 September 2021, directing the Applicant to provide a copy of the tenancy agreement or as much information as he could about the terms of the tenancy, if this was not available. The Applicant was also directed to provide evidence in support of the application and to submit an amended application form as the form lodged included a claim in terms of Rule 103, which was the subject of a separate application. Furthermore, the Applicant was asked to clarify the legal basis for a claim related to a failure to notify him that the Applicant had commenced eviction proceedings. The Applicant was notified

that failure to provide a response might result in the application being rejected. The Applicant responded to the first letter, stating that the tenancy agreement was not available, but did not reply to the subsequent letters or provide any of the information or documents requested.

DECISION

2. The Legal Member considered the application in terms of Rules 5 and 8 of the Chamber Procedural Rules. Rule 5 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 set out “ in the rule to which the application relates. Rule 5(3) provides, “ 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.” Rule 111 requires an application to be submitted with “evidence to support the application” and “a copy of any relevant document”.
3. **After consideration of the application the Legal Member considers that the application should be rejected in terms of Rule 8(1)(c) 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. The Applicant submitted an application for a payment order in terms of Rule 111 of the Rules. The Applicant has failed to provide the Tribunal with the evidence required in terms of Rule 111 to support the application and a copy of the tenancy agreement, a “relevant document” required in terms of Rule 111(b)(ii). Three letters have been issued, directing the Applicant to provide the required evidence and information. The Applicant has also been directed

to provide further information about the tenancy, if a copy of the document cannot be provided, and to amend the application form as it includes a claim which has already been submitted by the Applicant under Rule 103 of the Procedure Rules. He has failed to respond or provide the information and documents requested.

5. The Legal Member is therefore 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.



Josephine Bonnar, Legal Member
12 November 2021