



**DECISION AND STATEMENT OF REASONS OF JOSEPHINE BONNAR,
LEGAL MEMBER OF THE FIRST-TIER TRIBUNAL WITH DELEGATED
POWERS OF THE CHAMBER PRESIDENT**

**Under Rule 5 of the First-tier Tribunal for Scotland Housing and Property
Chamber Rules of Procedure 2017 ("the Rules")**

in connection with

78 Main Street, Cumbernauld ("the Property")

Case Reference: FTS/HPC/EV/21/0176

Scott Queen, 23 Marwick Road, Felixstowe ("the Applicant")

Daryl Boyce, Stacey Grant, 78 Main Street, Cumbernauld ("the Respondents")

1. By application received on 26 January 2021, the Applicant seeks an eviction order in terms of Rule 109 of the Rules and Section 51 Private Housing (Tenancies) (Scotland) Act 2016. The application form does not specify the eviction ground although the Notice to Leave submitted with the application specifies ground 5. A section 11 Notice and tenancy agreement were also submitted with the application.
2. On 2 February 2021, the Tribunal issued a request for further information to the Applicant. The Applicant was advised that he was required to provide an amended section 11 notice with evidence of service on the local authority, an amended section of the application which specified the eviction ground and a mandate authorising the Applicant's representative to deal with the application. The Applicant was also asked to address an issue with the Notice to leave as it did not appear that the required period of notice had been given. No response was received. Two further letters were issued on 2 and 31 March 2021

directing the Applicant to respond to the request for further information, 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. 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 Rule 5.**

Reasons for Decision

5. The Applicant submitted an application for an eviction order in terms of Rule 109 of the Procedural Rules. The Applicant failed to specify the eviction ground in the application or provide a valid section 11 notice with evidence of service. On 2 February, 2 and 31 March 2021, the Tribunal wrote to the Applicant, directing the Applicant to provide an amended form and an amended section 11 notice with evidence of service. The Applicant was also directed to address an issue with the notice period given in relation to the Notice to leave. The Applicant has failed to respond or provide the required information or documents.
6. The Applicant failed to provide information and documentation, having been directed to do so in a request 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

Josephine Bonnar, Legal Member
22 April 2021