



**DECISION AND STATEMENT OF REASONS OF MELANIE BARBOUR, 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 Procedural Rules")**

**in connection with**

**Case reference FTS/HPC/EV/22/0496**

**Parties**

**Mr Russell Dunlop (Applicant)**

**Mr Gary Cowan (Respondent)**

**50 Herbertson Crescent, Irvine, KA12 0QW (House)**

1. On 23 February 2022, an application was received from the applicant. The application was made under Rule 109 of the Procedural Rules, being an application for eviction of a private residential tenancy.
2. By letters from the Tribunal dated 23 February, 10 March, 12 April and 17 May all 2022 the Tribunal requested further information. The applicant responded in part to the further information requests, however as at 13 June 2022 the following information was still outstanding:-
  1. A copy of the tenancy agreement. You have only provided the last page – the whole agreement is required. If you do not have this you must provide as much information about the tenancy as you can.
  2. An amended application which includes the names and addresses of both tenants. Even if one of the tenants has moved out, the tenancy remains a joint tenancy and the application for eviction must relate to both.

3. A section 11 notice for the joint tenant and evidence that this was sent to the Local Authority.
  4. Evidence that the Notices to leave were sent to both tenants such as copies of the emails.
  5. Evidence of the antisocial behaviour. It is not enough to show that one of the tenants has been charged with Road traffic offences. Please provide evidence such as statements or emails from neighbours regarding the antisocial behaviour. These should provide details of the incidents. The names and addresses of the witnesses should be removed from the statements unless you have written consent from them to use these details as the Respondents will be provided with copies of all documents.
  6. An explanation for the registered landlord being Fizzi Ltd and not the Applicant.
3. The applicant has failed to respond to the last further information request and the foregoing issues remain outstanding.

## **DECISION**

4. I considered the application in terms of Rule 8 of the 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."

5. After consideration of the application, the attachments and correspondence from the applicant, I consider that the application should be rejected on the basis that I have good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

## **REASONS FOR DECISION**

6. The Tribunal had requested further information to support this application from the applicant. The applicant has not provided the information requested.
7. The applicant's failure to provide the requested information to support the application gives me good reason to believe that it would not be appropriate to accept the application in circumstances where the applicant is apparently unable to do so in order to progress this application under rule 109.
8. Accordingly, for this reason the application must be rejected upon the basis that I have good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

## **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.

Melanie Barbour

Legal Member

2022