



**DECISION AND STATEMENT OF REASONS OF MARTIN J.MCALLISTER
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

7 Glenfield Terrace, Galashiels, TD1 2AS ("the Property")

Case Reference: FTS/HPC/PR/22/2317

Rebekah Cleghorn or Swanston ("**the Applicant**")

Ian Gilbert ("**the Respondent**")

1. An application, dated 12th July 2022, was received from the Applicant by the First –tier Tribunal for Scotland, Housing and Property Chamber (the FTT). The application was made under Rule 68 of the Procedure Rules.
2. The Application stated the Respondent had failed to provide necessary information to the Applicant as required by statutory provisions. The information included gas and electrical safety certificates.
3. On 19th July 2022 the FTT wrote to the Applicant on two matters and sought a response.
 - 3.1 The Applicant was advised that Rule 68 is in respect of an application to

provide a written tenancy agreement and clarification was sought from her because she had submitted a copy of a short assured tenancy agreement.

3.2 The Applicant was advised that she had sent the FTT a copy of a notice which she had given to the Respondent which would have been appropriate for a private residential tenancy agreement under the Private Housing (Tenancies) (Scotland) Act 2016 and note in respect of a short assured tenancy agreement under the Housing (Scotland) Act 2008.

3.3 The Applicant was asked to clarify her position with regard to the application given the apparent defects.

4. No response was received and a reminder letter was sent on 15th September 2022. In that letter the Applicant was advised that, if no response was received by 29th September 2022, the President may decide to reject the application. No response was received to the letter of 15th September 2022.

DECISION

5. I considered the application in terms of Rules 5 and 8 of the 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 lodgement 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 required manner for lodgement.

Rule 8 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."

- 6. After consideration of the application, the attachments and correspondence from the Applicant, I consider that the application should be rejected in terms of Rule 8 (c) of the Rules of Procedure on the basis as the Tribunal has good reason to believe that it would not be appropriate to accept the application.**

REASONS FOR DECISION

7. The Applicant was asked for further information and none was provided.
8. The information requested was essential for the Tribunal to make a decision as to whether or not to admit the application for determination. On the face of it, the application was invalid because of the issues which the FTT raised with the Applicant.
9. The Applicant had failed to provide information having been required to do so in terms of Rule 5 (3).

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.

████████████████████
████████████████
████████████████

26th October 2022