



**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

10 Berwick Brae, Perth ("the Property")

Case Reference: FTS/HPC/PR/21/2159

Hannah Hodge, 10 Berwick Brae, Perth ("the Applicant")

Jillian Ferguson, Address Unknown ("the Respondent")

1. The Applicant lodged an application with the Tribunal on 6 September 2021, seeking an order in terms of Rule 103 of the Rules and Regulations 9 and 10 of the Tenancy Deposit (Scotland) Regulations 2011. A copy private residential tenancy agreement was lodged in support of the application. The Applicant did not provide an address for the Respondent in the application form or apply for service by advertisement.
2. On 23 September 2021, the Tribunal issued a letter to the Applicant, directing her to provide an address for the Respondent and also asking whether the joint tenant wished to be added as joint Applicant. The Applicant was advised that an address for the Respondent was required, or a request for service by advertisement should be submitted. The Applicant did not respond. Two further letters were issued to the Applicant, on 12 and 21 October 2021. The Applicant was advised that the letting agent or Landlord Registration might be able to provide an address and that the application could not be accepted without this

issue being addressed. The Applicant was also notified that if she did not respond, the application was likely to be rejected. No response has been received.

DECISION

3. The Legal Member considered the application in terms of Rules 5 and 8 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) Where the address of a party is not known to the person making the application under these Rules, the applicant must state this in the application and complete a request for service by advertisement in accordance with paragraph (5).

4. After consideration of the application the Legal Member determines 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.” The

basis of the decision is that the Applicant has failed to comply with Rule 5 and Rule 103.

Reasons for Decision

5. The Applicant submitted an application for an order in terms of Rule 103 of the Rules. This Rule states that the application must – “(a) state – (iii) the name, address and registration number (if any) of the landlord.” The Applicant has failed to provide an address for the Respondent, or to submit an application for service by advertisement in terms of Rule 5(4). On 23 September, 12 and 21 October 2021 the Tribunal issued letters to the Applicant, directing her to provide this information or apply for service by advertisement. She was also asked to clarify the position regarding the joint tenant. The Applicant has failed to respond or provide the required information or documents.
6. The Applicant has failed to comply with Rules 103 and Rule 5(4) of the Rules. The Applicant has also 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
8 November 2021

