



**DECISION AND STATEMENT OF REASONS OF PETRA HENNIG MCFATRIDGE 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

Chamber Ref: FTS/HPC/PY/22/3134

Parties:

Mohammed Malik, 50 Hays Walk, Haddington, EH41 3EH ("the Applicant")

**Elayne Blackwood, 1 Carberry Mains Farm Cottages, Carberry, Musselburgh,
EH21 8PX ("the Respondent")**

Corsua Farmhouse, Templand, Lockerbie, DG11 1TH ("the property")

A BACKGROUND

1. On 19 August 2022 the applicant's representative lodged with the First –tier Tribunal for Scotland, Housing and Property Chamber (the Tribunal) an application made under rule 41H of the Procedural Rules.
2. On 6 September 2022 the Tribunal wrote to the applicant's representatives requesting the following information to be submitted by 20 September 2022 as follows: "Before a decision can be made, we need you to provide us with the following: 1. Please provide written authorisation from the Applicant or you to act in

this matter. The application will not be processed until receipt of this authorisation.

2. Please provide a copy of the charge for payment served on the Applicant. Please reply to this office with the necessary information by 20 September 2022. If we do not hear from you within this time, the President may decide to reject the application.

3. On 15 September 2022 the Applicant's representative provided written authorisation to act and sent it a further copy of the Tribunal's decision document to which the debt relates but still no charge or other document to show that diligence had commenced.

B DECISION

1. 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."

2. **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.**

C REASONS FOR DECISION

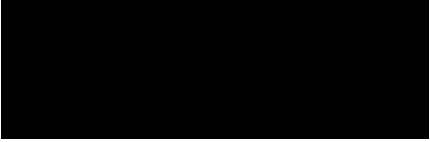
1. The Application is made under Rule 41 H of the Procedural Rules and S 5 of the Debtors (Scotland) Act 1987.
2. S 5 of the 1987 Act states "Subject to section 14 of this Act, this section applies to a debt due under a decree or other document in respect of which —
(a) a charge for payment has been served on the debtor;
(b) an arrestment has been executed; or
(c) an action of adjudication for debt has been commenced."
3. The Tribunal had requested evidence that one of the above conditions is met. The Applicant's representative has provided a further copy of the decision of the Tribunal but no evidence that diligence had commenced.
4. It would not be appropriate for the Tribunal to accept an application that does not meet the lodging requirements of the section under which the application is being made. The application is thus rejected.

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.



Petra Hennig McFatridge
Legal Member
23 September 2022