

Housing and Property Chamber
First-tier Tribunal for Scotland



**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
Case reference FTS/HPC/PR/22/2871

Parties

Mr Jamie Crewdson, Miss Afonwy Duff (Applicant)

DJ Alexander (Respondent)

90/8 Dickson Street, Edinburgh, EH6 8QQ (House)

85 Cochrane Street, Bathgate, EH48 4JF (House)

PROCEDURAL BACKGROUND:

1. The application under Rule 110 of the Procedural Rules being an application for an order under S 57 (2) of Private Housing (Tenancies) (Scotland) Act 2016 (the Act) was received by the First-tier Tribunal (FTT) on 12.8.22.
2. The application was made naming DJ Alexander, Samantha Kennedy as the

Respondent and gave as the Respondent's address the address of the letting agent DJ Alexander.

3. The following documents were ultimately lodged in connection with the application:-
Tenancy agreement, Notice to Leave, evidence to show the property was offered for rent after the date when the Notice to Leave expired, email from Cullen Kilshaw 26.6.22 re sale of the property.
4. The First-tier Tribunal (FTT) wrote to the Applicants on 21.9.22 and 1.11.22 asking for the address of the former landlord Samantha Kennedy so that the Respondent could be correctly stated in the application. On 22.9.22 the Applicants had sent an email stating that the information would be provided by 13.10.22. By 8.12.22 the information has still not been provided and no reply had been received to the letter of 1.11.22. The correspondence of the FTT had alerted the Applicants to the following: Please reply to this office with the necessary information by 15 November 2022. If we do not hear from you within this time, the President may decide to reject the application.
5. The documents are referred to for their terms and held to be incorporated herein.

DECISION

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."

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:

Findings and Reasons:

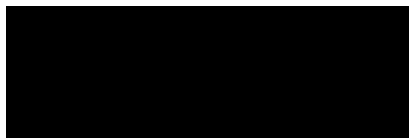
1. The Applicants seek an order under S 57 of the Act and made the application under Rule 110 of the Rules of Procedure. In order for the FTT to accept the application the Applicant must provide "the name, address and registration number (if any) of the former landlord"
2. It is the responsibility of Applicants to ensure that all documents and evidence necessary to make a valid application are submitted. In terms of Rule 5 (3) of the Rules of Procedure an application is held to be made on the date that the FTT receives the last of any outstanding documents necessary to meet the required manner for lodgment. To date the application is thus not properly made.
3. In light of the lack of response and the lack of provision of the necessary details it would not be appropriate for the FTT to accept the application as it remains incomplete. The Applicants had been given ample opportunity to provide the necessary details. They were clearly aware of the need to provide these. They were advised that if no reply was

received the application may be rejected. An application cannot be held pending indefinitely without the cooperation from the Applicant. For the above reasons the application has to be 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 McFatrige
Legal Member
8 December 2022