

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision by the Convener with Delegated Powers of the Chamber President

Under Rule 8 of the Schedule 1 to the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) (Regulations) 2017 ('the 2017 rules')

Re: Application to First-tier Tribunal made under section 22 of the Housing (Scotland) Act 2006

Chamber Reference Number: FTS/HPC/RP/19/1890

Re: Property Address: 166B East High Street, Forfar, Angus, DD8 2HG ('the Property')

Parties:

Carolanne Torrie, 65 Lily Bank Crescent, Forfar, Angus, DD8 2JA ('the Tenant')

Caledonia Property Company Scotland Limited, 50 Castle Street, Forfar, Angus, DD8 3AB ('the Landlord')

Decision

After careful consideration of the homeowner's application in terms of rule 8 of the 2017 rules, **I have decided that the application should be rejected.**

Reasons for the decision and grounds for rejection

I have considered the application in terms of Rule 8 of the 2017 rules. Rule 8 provides as follows:

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—

...(c) they have good reason to believe that it would not be appropriate to accept the application...

(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.

Reasons for decision

The application was made after the Tenant had left the Property. In terms of Schedule 2, paragraph 7(1) of the Housing (Scotland) Act 2006, the application is deemed to have been abandoned. The Tribunal is unable to proceed with the application in the absence of the Tenant as the application was invalid.

The reason for its invalidity is that notification by the tenant to the landlord of the alleged defects in the Property had not been made as required by the 2006 Act. The Tribunal is not itself in a position to make such a notification. The Tenant is now precluded from doing so since the application is now deemed abandoned as stated above.

I have therefore decided to reject your application under Rule 8 (b) and (c) of the 2017 rules.

What you should do now

If you accept the Convener's decision, there is no need to reply.

If you disagree with this decision –

A party aggrieved by the decision of the Chamber President or the Convener 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.

Yours sincerely
M O'Carrol

Convener
Legal member, First-tier Tribunal for Scotland (Housing and Property Chamber)