



**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 Rules")**

in connection with

163 Brock Road, Pollock, Glasgow, G53 6PD ("the Property")

Case Reference: FTS/HPC/RP/23/0370

Jennifer McAlinden ("the Tenant")

Gordon Watson, Solicitor ("the Applicant's Representative")

Glasgow Housing Association/ the Wheatley Group ("the Landlord")

1. The Tenant submitted an application dated 7th February 2023 to the Tribunal in terms of Section 22 (1) of the Housing (Scotland) Act. The Applicant's Representative submitted a copy of the tenancy agreement relating to the Property. This is a Scottish secure tenancy and states that the tenancy commenced on 25th October 2022.

DECISION

2. The Legal Member considered the application in terms of Rule 5 and Rule 48 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. “

3. **After consideration of the application the Legal Member considers 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 Application is incompetent.**

REASONS FOR DECISION

4. The Tenant’s application is in terms of section 22(3) of the 2006 Act. In terms of that section of the said Act, a tenant may apply to the Tribunal for determination of whether the landlord has failed to comply with the duty imposed by section 14 (1) (b) of the Act. The duty imposed by section 14 is to ensure that a let property meets the repairing standard as set out in section 13 of the Act.
5. Section 12 of the 2006 Act sets out the tenancies to which the repairing standard duty applies. Section 12 (1) states: “***This Chapter applies to any tenancy of a house let for human habitation unless it is (a) a Scottish secure tenancy or a short Scottish secure tenancy.***”
6. The Property is let under a Scottish secure tenancy and the Tribunal has no jurisdiction to consider the application.
7. The application cannot be accepted for determination and 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.

M J McAllister

Martin J. McAllister, Legal Member
27TH February 2023