



**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**

**29 Cardell Drive (Flat 0/10) ("the Property")**

**Case Reference: FTS/HPC/RP/22/0178**

**Mrs Kirsty McCorkindale ("the Tenant")**

**You First Advocacy ("the Tenant's Representative")**

**Mrs Moira Lang ("the Landlord")**

1. The Tenant's Representative submitted an application to the Tribunal dated 17th January 2022 in terms of Section 22 (1) of the Housing (Scotland) Act. On 8th March 2022, the Tribunal issued a request for further information to the Tenant's Representative. It required the Tenant's Representative to advise whether or not the Tenant had vacated the Property given that it had been provided with a copy of a termination letter dated 25th January 2022 indicating that the Tenant was to leave the Property on 28th January 2022. The Tribunal stated that the information was to be provided by 22nd March 2022. No response was received. On 25th March 2022, the Tribunal sent a reminder to the Tenant's Representative seeking the information previously requested. The Tribunal advised the Tenant's Representative that the information was to be provided by 1st April 2022, failing which, the President may consider rejecting the application. To date, no response has been received to the request for further information.

## DECISION

2. The Legal Member considered the application in terms of Rule 5 and Rule 43 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 basis of the decision is that the Applicant has failed to comply with Rule 5.**

## REASONS FOR DECISION

4. The Tenant has failed to provide the information with regard to whether or not the Tenancy has been terminated. The Tenant has also failed to provide this 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.

Martin J. McAllister, Legal Member  
22<sup>nd</sup> April 2022