



**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

20 High Street, Alyth, Blairgowrie, PH11 8DW ("the Property")

Case Reference: FTS/HPC/RP/21/2203

Mr Nic Bauer, address unknown ("the Tenant")

Mr Neil Anderson, Kinballoch, Bankhead, Alyth, PH11 8HQ ("the Landlord")

1. The Tenant submitted an application to the Tribunal on 9th September 2021 in terms of Section 22 (1) of the Housing (Scotland) Act ("the Act"). The Tribunal issued a request for further information and, in particular, whether or not the tenancy of the Property had been terminated. The Tenant confirmed that he had left the Property on 20th July 2021.

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 and Rule 48 and Section 22(3) of the 2006 Act.**

REASONS FOR DECISION

4. The Tenant’s application is in terms of Section 22(3) of the 2006 Act and Rule 48 of the Rules. Section 22(1) states that “a tenant may apply to the First-tier Tribunal for determination of whether the landlord has failed to comply with the duty imposed by section 14 (1) (b) of the Act.”Section 14 (1) (b) of the Act obliges a landlord to ensure that the house meets the repairing standard at all times during the tenancy.
5. It is clear from the statutory provisions referred to that it is a tenant who can make an application to the Tribunal under Section 22 of the Act. The tenancy terminated on 20th July 2021 and the application was made on 9th September 2021. The application is therefore not competent.

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
11th November 2021