



**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

I Harbour Street, Dunbar, EH42 1HU ("the Property")

Case Reference: FTS/HPC/RP/22/3869

Eugene Mack ("the Applicant")

Robert Hanney ("the Respondent")

1. The Applicant submitted an application dated 21st October 2022 to the Tribunal in terms of Section 22 (1) of the Housing (Scotland) Act. On 7th November 2022, the Tribunal issued a request for further information to the Applicant. He was asked to confirm why he considered it appropriate for the application to be considered given that the tenancy appeared to have terminated on 6th October 2022. On 1st December 2022, the Tribunal issued a further email to the Applicant requiring him to provide a response and advising that, if none was received by 8th December 2022, the President might consider rejection of the application. No response has been received to either of the requests for 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 and Section 22(1) of the 2006 Act.**

REASONS FOR DECISION

4. The Applicant's application is in terms of Section 22(1) of the 2006 Act and Rule 48 of the Rules. Section 22(1) states that 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 2006 Act. It appears that the tenancy terminated on 6th October 2022 when the Applicant was no longer a tenant.
5. The Tenant has also failed to provide this information, 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.

M McAllister

Martin J. McAllister, legal member, 19th December 2022

