



**DECISION AND STATEMENT OF REASONS OF JOSEPHINE BONNAR,  
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**

**Case Reference: FTS/HPC/PF/25/0914**

**Sheriff Bank, Edinburgh ("the Property")**

**Nicola Lundy, 8/17 Sheriff Bank, Edinburgh ("the Applicant")**

1. The Applicant submitted an application to the Tribunal in terms of Section 17 of the Property Factor (Scotland) Act 2011 ("the 2011 Act") and Rule 43 of the Tribunal Procedure Rules 2017. The Tribunal issued a request for further information and documents. The Applicant was directed to provide an amended application form which specified the breaches of the Code of Conduct which had occurred, evidence that the Respondent had been notified of the complaints before the application was made and a copy of the Respondent's written statement of services. . The Applicant submitted an amended application form but did not provide the other documents. Reminders were issued on 6 June and 8 July 2025 but no response was received to either email. The Applicant had been notified that if she failed to respond, the application might be rejected.

**DECISION**

2. The Legal Member considered the application in terms of Rule 5 and Rule 43 of the Chamber Procedural Rules and Section 17 of the 2011 Act. 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 43 and Section 17 of the 2011 Act.**

## **REASONS FOR DECISION**

4. The application is in terms of Section 17 of the 2011 Act and Rule 43. Section 17(3) states that no application may be made unless the Applicant has notified the Property Factor in writing of the complaint and the property factor has refused or delayed resolving the matter. Rule 43 states, “(1) In addition to the homeowner’s reasons as required by Section 17(2) of the 2011 Act. (2) The homeowner must attach to the application a copy of – (a) the notification from the homeowner to the property factor for the purposes of Section 17(3)(a) of the 2011 Act; (b) any response provided by or on behalf of the property factor to that notification. ...and (d) the statement of services provided by the property factor to the homeowner as required by the property factor code of conduct.”
5. The Applicant has failed to provide information and documents required by Rule 43 of the Rules and Section 17 of the 2011 Act. The Applicant has also failed to provide this information and documentation, having been directed to do so in requests for further information issued 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.

Josephine Bonnar

Legal Member

18 August 2025