



**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 Procedure Rules")

in connection with

Canda, Hollywood, Dumfries, DG2 0RH ("the Property")

Case Reference: FTS/HPC/EV/22/3649

KBA Homes Ltd ("**the Applicant**")

Pollock Fairbridge Schiavone, Solicitors ("**the Applicant's Representative**")

Lauren McCormick ("**the Respondent**")

1. An application, dated 5th October 2022, was received from the Applicant's Representative by the First –tier Tribunal for Scotland, Housing and Property Chamber (the FTT). The application was made under Rule 66 of the Procedure Rules. The application sought an order for eviction.
2. On 1st November 2022, the FTT wrote to the Applicant's Representative on a number of matters and sought a response. The Applicant's Representative was asked to provide the following:
 - 2.1 The AT5 Notice which was served on the Respondent so that it could be established that the lease is a short assured tenancy capable of being terminated by serving a notice under Section 33 of the Housing (Scotland) Act 1988.

2.2 Comments on the validity of the notice to quit given that it appears to refer to a date which is not an ish date.

3. There was no response from the Applicant's Representative and a reminder letter was sent on 2nd December 2022.
4. The letter to the Applicant's Representative dated 2nd December 2022 stated that, if a response were not received by 9th December 2022, the President might consider rejection of the application.
5. The Applicant's Representative has not responded to the request for further information.

DECISION

6. The application was considered in terms of Rules 5 and 8 of the Procedure 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 lodgement 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 required manner for lodgement.

Rule 8 provides

"Rejection of application

8. —(1) The Chamber President or another member of the First-tier Tribunal under the delegated powers of the Chamber President, must reject an application if –

(a) they consider that the application is frivolous or vexatious;

(b) the dispute to which the application relates has been resolved;

(c) they have good reason to believe that it would not be appropriate to accept the application;

(d) they consider that the application is being made for a purpose other than a purpose specified in the application; or

(e) the applicant has previously made an identical or substantially similar application and in the opinion of the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, there has been no significant change in any material considerations since the identical or substantially similar application was determined.

(2) Where the Chamber President, or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, makes a decision under paragraph (1) to reject an application the First-tier Tribunal must notify the applicant and the notification must state the reason for the decision."

7. The Tribunal determined that the application should be rejected in terms of Rule 8 (c) of the Rules of Procedure as the Tribunal has good reason to believe that it would not be appropriate to accept the application.

REASONS FOR DECISION

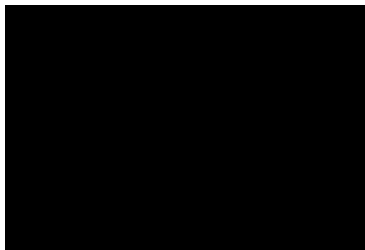
8. The Applicant's Representative was asked for further information.
9. The information requested was essential for the Tribunal to make a decision as to whether or not to admit the application for determination
10. The Applicant had failed to provide information having been required to do so in terms of Rule 5 (3).

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.



21st December 2022