

**Housing and Property Chamber
First-tier Tribunal for Scotland**



**DECISION AND STATEMENT OF REASONS OF JAMES BAULD, 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 Procedural Rules")

in connection with

FLAT 1/1, 21 Moorburn Road, Largs, KA30 9JA ("the Property")

Case Reference: FTS/HPC/CV/19/3667

Lochscape Property LLP ("the Applicant")

MS Julianne McDonald and Ms June Irvine ("the Respondents")

1. The application was made under Rule 111 of the Procedural Rules being an application for an payment order in connection with a private residential tenancy. The application was accompanied by supporting documentation
2. By way of letter and email dated 28 November 2019, a request for further information was sent to the Applicant. The applicant was asked to provide further information in connection with the owner of the property, information regarding the calculation of arrears and receipts for the costs for various items alleged to have been damaged..
3. No response was received from the Applicant to the request dated 13 November 2019. A further request were sent to the applicant by email and post on 17 January 2020. This further requests also advised that the application may be rejected should the information not be provided. The applicant has not responded to either of the two requests.

DECISION

4. The circumstances in which an application is to be rejected are governed by Rule 8 of the Chamber Procedural Rules. That Rule 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."

- 5. After consideration of the application, the further information referred to and correspondence from the Applicant's agent, the Legal Member considers that the application should be rejected on the basis that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.**

REASONS FOR DECISION

6. Two requests were made for further information from the Applicant. This additional information requested was necessary to allow the application to proceed. The applicant was informed that the additional information was essential to allow further progress of the application and was warned that failure to respond may lead to the application being rejected. In the absence of any response by the Applicant, it would not be appropriate to accept the application and accordingly it is rejected

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.

Mr James Bauld
Legal Member
7 February 2020