

Housing and Property Chamber
First-tier Tribunal for Scotland



**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

Apartment 3, 1 Dunlop Street, Renfrew ("the Property")

Case Reference: FTS/HPC/LA/23/0765

**Maryna Koval, Nazar Vasylyv Apartment 3, 1 Dunlop Street, Renfrew ("the
Applicants)**

Arc Property Management, 48 West George Street, Glasgow ("the Respondent")

1. The Applicants submitted an application to the Tribunal in terms of Section 48 of the Housing (Scotland) Act 2014 and Rule 95 of the Tribunal Procedure Rules. They did not provide evidence that the Respondent had been notified of the complaints prior to the application being made, as required by Rule 95 and Section 48(4) of the 2014 Act. In response to a request for further information issued on 23 March 2023, the Applicants provided copies of some text or WhatsApp messages. However, these did not appear to establish that notification of the complaints had taken place. Two further requests were issued, on 27 April and 19 May 2023, directing the Applicants to provide this evidence. No response has been received.

DECISION

2. The Legal Member considered the application in terms of Rule 5 and Rule 95

of the Chamber Procedural Rules and Section 48(4) of the 2014 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 95 and Section 48 of the 2014 Act.**

REASONS FOR DECISION

4. The application is in terms of Section 48 of the 2014 Act. Section 48(4) states that that, “No application may be made unless the Applicant has notified the letting agent of the breach of the Code of practice in question.” In terms of Rule 95, a copy of the notification to the letting agent must accompany the application.
5. The Applicant has failed to provide evidence of notification of the complaint to the letting agent, as required by Section 48(4) and Rule 95. They have also failed to provide this evidence, although directed to do so in three

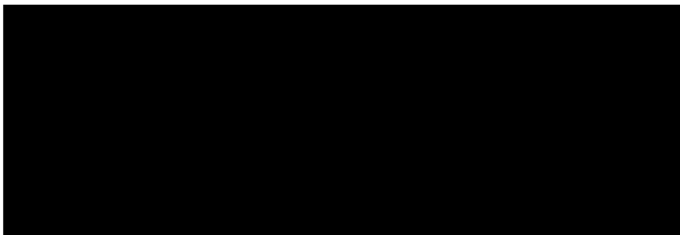
separate requests for further information issued by the Tribunal in terms of Rule 5(3) of the Rules. The Legal Member therefore determines that the application cannot be accepted. The application is rejected on that basis.

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
22 June 2023