



**Decision with Statement of Reasons of Alan Strain, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules")**

**Chamber Ref: FTS/HPC/EV/23/2108**

**Re: 4 Canal Terrace, Inverness, IV3 8QQ (Property)**

**Parties**

**Mr Ronald Bown, Mrs Fiona Bown (Applicant)**

**Ms Iona Elizabeth Patterson MacDonald (Respondent)**

**Tribunal Member:**

**Alan Strain (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be dismissed on the basis that it would not be appropriate to accept the application in terms of Rule 8(1)(c).**

**Background**

1. The application was received by the Tribunal under Rule 109 on 26 June 2023.
2. The application was considered by the Tribunal and further information was requested by letters of 29 July 2023 and 18 September 2023 as follows:

"1. You have applied for an order for eviction of a tenant under Ground 3 of the 2016 Act however you do not appear to have served a valid Notice to Leave. The format of a Notice to leave is prescribed by Section 6 Private Residential Tenancies (Prescribed Notices and Forms) (Scotland) Regulations 2017. This states that the Notice must be in the form shown in the Schedule. This includes a list of all of the eviction grounds, in part 2, and a section relating to evidence of the ground, in part 3, as well as notifying

the tenant at which date an application for eviction can be raised. These appear to be missing from the document you have submitted. The Notice therefore appears to be invalid. Please clarify the basis upon which the Tribunal can consider the application without a valid notice to leave? 2. If you are able to convince the Tribunal that this is a valid notice to leave then you it would appear you are relying on Ground 3 and we will require some evidence of your intention to do refurbishment works. Please provide a contract with a builder or architect or evidence of any planning permission or building warrant. If you intend to do the works yourself then a statement or affidavit to that effect may suffice but the ground requires that the landlord show it would be impracticable for the refurbishment to be carried out with the tenant occupying the property. Please let us have your comments and evidence for this. 3. You have now mentioned that you would like to also rely on Ground 12 which is rent arrears. This is not mentioned in the Notice to Leave that you have produced so please advise why (if the notice is valid) the Tribunal can accept another ground even though it was not mentioned in the original notice? You may wish to consider withdrawing this application and serving a new notice on these additional grounds but this is a matter for yourselves as the applicant and we would recommend you take legal advice. 4. Please also advise if you wish to withdraw the sickness submitted or please explain why they are relevant to the grounds of eviction? Please let us have your further response within 14 days so that your application can be further considered."

And

"Please provide the information requested in the Tribunal's letter to you of 29 July 2023. Please reply to this office with the necessary information by 25 September 2023. If we do not hear from you within this time, the President may decide to reject the application."

No response was received to any of the requests for information.

### **Reasons for Decision**

3. The Tribunal considered the application in terms of 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;·*  
*(c) they have good reason to believe that it would not be appropriate to accept the application;*

*(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."*

4. Rule 109 of the Tribunal Procedure Rules provides:

### **Application for an eviction order**

109. Where a landlord makes an application under section 51(1) (for an eviction order) of the 2016 Act, the application must—

(a) state—

(i) the name, address and registration number (if any) of the landlord;

(ii) the name, address and profession of any representative of the landlord;

(iii) the name and address of the tenant (if known); and

(iv) the ground or grounds for eviction;

(b) be accompanied by—

(i) evidence showing that the eviction ground or grounds has been met;

(ii) a copy of the notice to leave given to the tenant as required under section 52(3) of the 2016 Act; and

(iii) a copy of the notice given to the local authority as required under section 56(1) of the 2016 Act; and

(iv) a copy of Form BB (notice to the occupier) under schedule 6 of the Conveyancing and Feudal Reform (Scotland) Act 1970 (if applicable), and

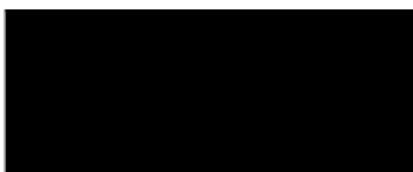
(c) be signed and dated by the landlord or a representative of the landlord.

The Applicant has failed to provide necessary information. The Tribunal could not grant the order sought without this information.

5. The Tribunal accordingly consider that there is good reason why the application should not be accepted. The application is accordingly rejected.

### **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal 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.**



**17 October 2023**

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**Legal Member/Chair**

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**Date**