



**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/RP/23/4095

No 2, The Oaks, Moneydie, Perth ("the Property")

Lydea Carneson, No 2 The Oaks, Moneydie, Perth ("the tenant")

Clyde Properties, 8 Busby Road, Glasgow ("the Landlord")

1. The Applicant submitted an application to the Tribunal in terms of Section 22 of the Housing (Scotland) Act 2006 and Rule 48 of the Tribunal Procedure Rules 2017. The Tribunal issued a request for further information and documents. The Applicant was directed to clarify the identity of the Respondent as the application appeared to have been made against the letting agent. The Applicant was also directed to provide evidence that the Respondent had been notified of the repairing standard issues in terms of Section 22(3) of the 2006 Act. In response, the Applicant advised the Tribunal that she had vacated the property and was now residing at another address.

DECISION

2. The Legal Member considered the application in terms of Rules 5, 8 and 48 of the Chamber Procedural Rules and Section 22 of the 2006 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 48 Section 22 of the 2006 Act.**

REASONS FOR DECISION

4. The application is made in terms of Section 22 of the 2006 Act and Rule 48 of the Procedure Rules. Section 22 states that an application may be made by a tenant. Rule 48 states, that the application must provide the name and address of the tenant, the name of the landlord and that the application must be accompanied by the notification to the landlord in terms of Section 22(3) of the 2006 Act. The application did not provide the name of the landlord and was not accompanied by the relevant notification. In response to a request issued in terms of Rule 5(3), the Applicant advised the Tribunal that the tenancy had come to an end.
5. As an application can only be made by a tenant, not a former tenant, and as the application had not been “made” in terms of Rule 48 prior to the termination of the tenancy, the Legal Member is satisfied that it would not be appropriate to accept the application. It 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.

J Bonnar

22 February 2024