



**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 Procedure Rules")**

Case Reference: FTS/HPC/EV/23/4359

36 Gilmour Wynd, Stevenson ("the Property")

Andrew Henderson, 160 Commonwealth Drive, Troon ("the Applicant")

**David Postlewaite, Laura McNeil, 36 Gilmour Wynd, Stevenson ("the
Respondent")**

1. The Applicant lodged an application for an eviction order in terms of Rule 109 of the Procedure Rules and Section 51 of the Private Housing Tenancies (Scotland) Act 2016 ("the 2016 Act").
2. The Tribunal issued a number of requests for further information and documents. The Tribunal asked the Applicant to provide a copy of the section 11 notice sent to the Local Authority with evidence that it had been sent. The Applicant responded to the initial request but did not provide a copy of the notice. The Applicant was notified that if he failed to provide a copy of the section 11 notice it was likely that the application would be rejected. No further response has been received.

Decision

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."

Reasons for decision

4. Rule 5 of the Procedure Rules states that 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..." the relevant Rule. In terms of Rules 5(2) and (3) the Chamber President or a Member with delegated powers must assess whether the "mandatory requirements for lodgement have been met" and "may request further documents".

5. The application was lodged in terms of Rule 109. This Rule requires an application to be accompanied by a section 11 notice. The Applicant did not lodge a section 11 with the application and has also failed to provide it when directed to do so in terms of Rule 5(2) and (3) of the Procedure Rules

6. The Applicant has failed to comply with Rules 5 and 109 of the Procedure Rules. In the circumstances, the Legal Member is satisfied that there is good reason to believe that it would not be appropriate to accept the application. 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.

J Bonnar

Josephine Bonnar, Legal Member
25 March 2024