



**DECISION AND STATEMENT OF REASONS OF PETRA HENNIG MCFATRIDGE 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

Case reference FTS/HPC/PR/23/4436

**Parties**

**Ms Eleonore Emma Clara Stolz (Applicant)**

**Ms Angela Louise Main (Respondent)**

**1 Montague Lane, Glasgow, Lanarkshire, G12 9UN (House)**

**PROCEDURAL BACKGROUND:**

1. The application was made under Rule 110 of the Procedural Rules, which relates to applications for a wrongful termination order in terms of S 57 or 58 of the Private Housing (Tenancies) (Scotland) Act 2016 (the Act). The application was received on 11.12.23 by the First-tier Tribunal (FTT).
2. The following documents were ultimately lodged in connection with the application:- A copy of a tenancy agreement commencing 28.4.23 between the parties, a copy of a Notice to Leave dated 17.10.23 under ground 6 of schedule 3 of the Act together with confirmation of service by Sheriff Officers on 18.10.23 and a letter from the landlord

stating that the property use would be changed to AirB&B. The Applicant Ms Stolz had initially made the application in her sole name. In an email dated 14.12.23 she attempted to add two joint tenants but did not provide written authorisation from the individuals confirming they wished to become joint Applicants and authorised the Applicant to act on their behalf. She also did not provide the full address for these individuals. Thus at present the application is only made in the name of Ms Stolz.

3. On 9.1.24 the FTT wrote to the Applicant in the following terms: Before a decision can be made, we need you to provide us with the following: • The legal basis of your application is unclear. A Rule 110 application must show that you were misled into ceasing to occupy the property by the landlord, and that your tenancy was wrongfully terminated. You have stated that using the property as an AirBnB is not allowed under the eviction ban, but the legislation shows ground 6 to be that the property is to be used for a purpose other than providing a person with a home. Do you have any evidence that the landlord did not proceed to use the property in terms of ground 6? It may be the case that an incorrect period of notice was given in the Notice to Leave, but that is not evidence of wrongful termination. You may wish to take advice on this matter, and you may wish to consider withdrawing the application if there is no proper legal basis. If you intend to show that there is a proper legal basis, you would have to lodge evidence to show that the tenancy was unlawfully terminated. • We would also require a proper address for the Respondent, as a care of address is not acceptable.' Please reply to this office with the necessary information by 23 January 2024. If we do not hear from you within this time, the President may decide to reject the application.
4. No reply was received.
5. On 22.2.24 the FTT again wrote to the Applicant in the following terms: Your application has been further reviewed by a legal member of the First-tier Tribunal with delegated powers of the Chamber President. It is noted that you have failed to provide the further information requested by correspondence dated 9 January 2024. We now write to advise you that if you fail to provide this information within the next two weeks the tribunal may have no option but to reject your application. You should be aware that the Tribunal has the power to reject applications on grounds set out in rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations. Please reply to this office with the necessary information by 7 March 2024. If we do not hear from you within this time, the President may decide to reject the application.
6. Again no reply was received.
7. The documents are referred to for their terms and held to be incorporated herein.

## DECISION

I considered the application in terms of Rule 8 of the 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."*

After consideration of the application, the attachments and correspondence from the Applicant, I consider that the application should be rejected in terms of Rule 8 (c) of the Rules of Procedure on the basis as the Tribunal has good reason to believe that it would not be appropriate to accept the application.

**REASONS FOR DECISION:**

**Findings and Reasons:**

8. It is the responsibility of an Applicant to ensure that all documents and evidence

necessary to make a valid application are submitted.

9. In terms of Rule 110 (a) (iii) of the Rules of Procedure the Applicant has to provide the address of the Respondent. Only a care of address was provided.
10. In terms of Rule 110 (b) the application has to be accompanied by evidence showing that the tenancy was wrongfully terminated. The Notice to Leave produced appears on the face of it to be a valid Notice to Leave as it states as the ground of the notice the statutory ground 6 of schedule 3 of the Act and provides, on the face of it, the correct notice period of 28 days in terms of S 54 (3) (a) of the Act. The tenancy had started on 28.4.23 and the Notice to Leave was served by Sheriff Officers less than 6 months after that date on 18.10.23. 28 days is the notice period for tenancies which had, at the time of service of the Notice to Leave, lasted for a period of less than 6 months. Neither document discloses the basis for a wrongful termination application.
11. There was no attempt by the Applicant to set out on what basis the application may be made in terms of rule 110. It is not clear why the Applicant considers this was a wrongful termination of a Private Residential Tenancy and when asked about this the Applicant did not provide a reply. The letters from the FTT specifically contained the following information: "If we do not hear from you within this time, the President may decide to reject the application. " The Applicant was asked repeatedly to address the request for further information within specific time limits and no further representations were provided within the periods stated by the FTT.
12. The Tribunal finds that the application is incomplete as the actual address of the Respondent was not provided and no evidence of a wrongful termination of the tenancy was produced. It would not be appropriate to accept an incomplete application.
13. The Tribunal also considers that the application can now be rejected for lack of insistence as two letters requesting further information have remained unanswered.

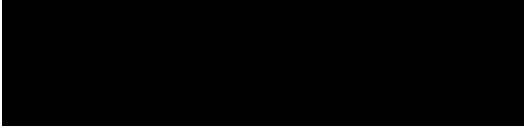
### **What you should do now**

**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.



Legal Member  
28 March 2024