



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rules 8(1) and 26 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Chamber Ref: FTS/HPC/EV/24/4465

Flat 2, 38 Bridge Street, Rothesay, Isle of Bute, PA20 0HS ("the Property")

Parties:

**James Kerr ("Applicant")
John Connery ("Respondent")**

Tribunal Member: Ruth O'Hare (Legal Member) with delegated powers from the Chamber President

Decision

The Tribunal rejects the application by the Applicant received by it on 23 September 2024 under Rule 8(1)(c) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules").

Background

- 1 The Applicant submitted an application to the Tribunal under Rule 109 seeking an eviction order against the Respondent on the basis of rent arrears.
- 2 On 25 September 2024 the Tribunal wrote to the Applicant by email advising that the application was incomplete. In particular the Tribunal requested that the Applicant provide evidence to support the eviction ground, proof of delivery of the notice to leave to the Respondent, a copy of the notice required under section 11 of the Homelessness etc (Scotland) Act 2003 and proof that this had been given to the local authority.
- 3 On 2 October 2024 the Tribunal received a letter from the Applicant with statements from third parties regarding delivery of the notice to leave and a screenshot from the local authority website confirming that documents regarding the Respondent had been submitted and sent to the benefits section.
- 4 On 30 October 2024 the Tribunal wrote again to the Applicant highlighting a defect in the notice to leave and asking the Applicant to clarify the position. The

Applicant was also asked to provide a rent statement in support of the eviction ground, and to clarify why a form AT6 had been lodged with the application.

- 5 The Tribunal received no response. On 10 December 2024 the Tribunal sent a further email to the Applicant requesting he provide the information previously requested within 14 days, failing which his application may be rejected.
- 6 No further response was received from the Applicant.

Reasons for Decision

- 7 The Legal Member considered the application in terms of the Rules and determined 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 provide the information requested by the Tribunal under Rule 5(3) of the Rules which is necessary to meet the required manner for lodgement. The Applicant has been asked for the information on two occasions. The Applicant has been warned that a failure to provide the information may result in the application being rejected. Accordingly the Legal Member has concluded that the application cannot be accepted in its current form and must be rejected under Rule 8(1)(c).

NOTE: What you should do now.

If you accept this decision there is no need to reply. If you disagree with this decision you should note the following: A party aggrieved by this 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 seek permission to appeal within 30 days of the date the decision was sent them. Information about the appeal procedure can be forwarded on request.

Ruth O’Hare, Legal Member
28 January 2025