

Housing and Property Chamber
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF ALASTAIR HOUSTON, 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

0-2 548 Hamilton Road, Mount Vernon, Glasgow, G71 7SG ("the Property")

Case Reference: FTS/HPC/EV/19/1184

MR JOHN BAIRD ("the Applicant")

MR MARIO BOCHENEK, MS JUDY COMAR ("the Respondent")

1. The application was made under Rule 109 of the Rules being an application for a Private Residential Tenancy eviction order. The application confirmed that the order was sought on the basis of alleged rent arrears.
2. A request for further information had been sent to the Applicant dated 17 May 2019. Clarification was sought as to the validity of the notice to leave accompanying the application, as was proof service of the said notice, a copy of a Section 11 notice, evidence of unpaid rent in the form of a statement and a copy of the title deeds.
3. No response was received from the Applicant to the request dated 17 May 2019.

DECISION

4. The circumstances in which an application is to be rejected are governed by 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;*
- (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."

- 5. After consideration of the application, the further information referred to and correspondence from the Applicant's agent, the Legal Member considers that the application should be rejected on the basis that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.**

REASONS FOR DECISION

6. A request was made for further information from the Applicant, namely that detailed above. A valid notice to leave accompanied by proof of service on a tenant, evidence showing the eviction ground had been met and a copy of a Section 11 notice were all necessary to satisfy the requirements of Rule 109 of the Rules to make such an application. In the absence of any response by the Applicant, it would not be appropriate to accept the application.

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.

Alastair Houston

Mr Alastair Houston

Legal Member

11 June 2019