



**DECISION AND STATEMENT OF REASONS OF MELANIE BARBOUR, 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/EV/21/1540

Parties

Mr John Barron (Applicant)

Mr Allan Melrose (Respondent)

77A High Street, Inverkeithing, Fife, KY11 1NW (Property)

1. On 29 June 2021, an application was received from the applicant. The application was made under Rule 66 of the Procedural Rules, being an application for an order for recovery of possession of a short assured tenancy.
2. By letters from the Tribunal dated 13 July and 9 August both 2021, the Tribunal requested further information including :-
 - The tenancy agreement you have submitted does not specify a term. There is a start date but no end date or indication of how long the tenancy is due the last. A short assured tenancy must have an initial term of at least 6 months. Please provide evidence of the agreed initial term.
 - You have submitted a Notice to leave with the application. This form of notice can only be used with a private residential tenancy which started after 1 December 2017. A notice to quit is required for an application under rule 66. Please provide a copy of the correct notice and evidence that it was sent to the Respondent.

- Please provide a copy of the section 11 notice sent to the Local authority and evidence that it was sent.
 - Please provide written consent from the joint owner to you entering into a tenancy agreement with the Respondent and making this Application to the tribunal; or consider whether you wish to amend your Application to add a joint applicant.
3. As at 10 September 2021 the information referred to in the preceding paragraph remained outstanding and the applicant failed to provide any of further information requested.

DECISION

4. 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."

5. After consideration of the application, the attachments and correspondence from the applicant, I consider that the application should be rejected on the basis that I have good

reason to believe 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. The Tribunal has requested further information to support this application from the applicant. The applicant has not provided the information requested.
7. I consider that the applicant's failure to provide this information to support the application, as requested by the Tribunal, gives me good reason to believe that it would not be appropriate to accept the application in circumstances where the applicant is apparently unable to do so in order to progress this application.
8. Accordingly, for this reason, the application must be rejected upon the basis that I have good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

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.

Melanie Barbour

Melanie Barbour

Legal Member

2021