



**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”)**

in connection with

55G Chapel Street, Airdrie (“the Property”)

Case Reference: FTS/HPC/EV/23/0210

Javerick Group, 143 Station Road, Hampton (“the Applicant”)

Emma Fraser, Liam McGowan, 55G Chapel Street, Airdrie (“the Respondents”)

1. The Applicant seeks 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. Between 24 January and 29 June 2023, the Tribunal issued requests for further information and documents. The Applicant was directed to provide evidence of service of the Notice to leave on the Respondents and a copy of the section 11 Notice with evidence it had been sent to the Local Authority. The Applicant was also asked to provide an amended application form, which specified the correct eviction ground. The application and Notice to leave appeared to be based on ground 12, rent arrears. However, the application form referred to ground 10, although no information or evidence was lodged to indicate that the Respondents were not occupying the property. The Applicant responded to the requests but failed to provide the documents or information which had been requested.

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. The application which was submitted was not accompanied by any documents. In response to a request for further information, the Applicant lodged a Notice to leave which refers to ground 12, rent arrears, and a rent statement. Although the Applicant was directed, in a number of requests for further information, to provide evidence of service of the Notice to leave, an amended application form and a section 11 notice, these documents have not been lodged.
5. 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 rules.....105 to 111, as appropriate”. 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”. Rule 109 requires an Applicant to lodge a copy of the Notice to Leave which has been given to the Respondent and a copy of the Section 11 Notice sent to the Local Authority. The Applicant did not provide evidence that the Notice to leave had been served or a copy of the section 11 notice and has failed to provide these documents when directed to do so by the Tribunal in terms of Rule 5(3). The application form also refers to a different ground from that specified in the Notice to leave and the Applicant has failed to rectify this error.
6. As the Applicant has failed to comply with Rules 5 and 109 of the Procedure Rules, 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.

Josephine Bonnar, Legal Member
27 July 2023