

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF ALISON KELLY, 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

332 Braehead Road, Bonhill, Alexandria, G83 8NF

**Case Reference: FTS/HPC/EV/18/0687**

**MR Giles Young ("the Applicant")**

**Miss Emma Hopper ("the Respondent")**

The Application was lodged under Rule 65 of the Chamber Procedural Rules on 21<sup>st</sup> March 2018, being an application by a private landlord for possession on termination of an Assured Tenancy. The following documents were enclosed with the Application:

- (i) Copy Lease
- (ii) Form AT5

The Applicant's agent was written to on 22<sup>nd</sup> March 2018 and asked to provide copy AT6, a copy of the Notice To Quit, evidence that the possession ground or grounds had been met and a copy of the section 11 Notice to the Local Authority.

On 3<sup>rd</sup> April 2018 the Applicant's agents wrote to the tribunal enclosing copies of the Notice To Quit and Section 33 Notice. They also enclosed a Payment Schedule. Their covering letter stated that they enclosed "a copy of all the documentation we have".

No Section 11 Notice has been produced.

The copy of the Agreement To A Short Assured Tenancy produced is dated 25<sup>th</sup> November 2013. It states that the Tenancy is for a fixed term of 6 months, beginning on 1<sup>st</sup> December 2013.

The Notice To Quit and Section 33 Notice are both dated 25<sup>th</sup> August 2018 and both give the termination date as 1<sup>st</sup> November 2017. This date is not an ish date in terms of the tenancy and therefore the notices are incompetent.

## **DECISION**

I considered the application in terms of 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. "*

- 2 After consideration of the application and supporting documentation and correspondence from the Applicant's solicitor, I consider that the application should be rejected on the basis that it is not appropriate to accept it in terms of Rule 8(1) (c) of the Procedural Rules.

## **REASONS FOR DECISION**

The Notice To Quit and Section 33 Notice are both dated 25<sup>th</sup> August 2018 and both give the termination date as 1<sup>st</sup> November 2017. This date is not an ish date in terms of the tenancy and therefore the notices are incompetent.

### **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.

A Kelly

Miss Alison Kelly  
Legal Member  
16<sup>th</sup> April 2018