

**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

The Manse, Bowhouse Road, Grangemouth, FK3 0EX

**Case Reference: FTS/HPC/PR/20/0014**

**Mr Mory Marcel Sangare and Ms Sandrine Zeldi Mozez ("the Applicant")**

**The Church of Scotland ("the Respondent")**

The Application was lodged under Rule 69 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") on 6<sup>th</sup> January 2020, being an application by a former tenant seeking damages for unlawful eviction in terms of section 36(6A) or (6B) of the Housing (Scotland) Act 1988.

The Applicants were written to by the Tribunal on 17<sup>th</sup> February 2020 asking for a copy of the Tenancy Agreement, and confirming that an application under Rule 69 was only appropriate if the Tenancy Agreement was entered in to before 1<sup>st</sup> December 2017, and that if it had been constituted after that date the Applicants' remedy would be under Rule 110 of the Rules.

The Applicants emailed a copy of the Tenancy Agreement on 1<sup>st</sup> March 2020. It showed that the tenancy had commenced on 27<sup>th</sup> February 2019.

**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 I consider that it 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 tenancy began on 27th February 2019. It therefore does not fall within the definition of a matter that can be dealt with under Rule 69. In terms of Rule 8 (c) it would therefore 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.

# Alison J Kelly

Miss Alison Kelly  
Legal Member  
16<sup>th</sup> March 2020

J