



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 8(1)(c) of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”)**

**Chamber Ref: FTS/HPC/EV/25/4115**

**Re: Property at 5 Kirkton Street, Ballingry, KY5 8NU (“the Property”)**

**Parties:**

**Mr Kevin Payne, 89 Balbedie Avenue, Lochore, KY5 8HW (“the Applicant”)**

**Tribunal Members: Ruth O’Hare, Legal Member with delegated powers from the Chamber President**

**Decision**

The Legal Member determined that there is good reason to believe that it would not be appropriate to accept this application received by the Tribunal on 26 September 2025.

The Legal Member therefore rejects the application under Rule 8(1)(c) of the Rules.

**Background**

- 1 This is an application under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 and Rule 109 of the Rules. The Applicant sought an eviction order in relation to a private residential tenancy. The application was submitted on the Applicant’s behalf by their representative, Robert F MacDonald Solicitors.
- 2 In terms of Rule 5(2) of the Rules, a Legal Member of the Tribunal with delegated powers from the Chamber President reviewed the application to assess whether it had been lodged in the required manner. Following said review the Tribunal wrote to the Applicant’s representative by email on 3 November 2025 requesting further information. In particular, the Tribunal advised that the notice to leave produced did not relate to the parties. The Tribunal requested a copy of the notice to leave served on the tenant with evidence of service, along with evidence to support the ground for eviction. The

Tribunal asked the Applicant's representative to respond within 14 days, failing which the application may be rejected.

- 3 On 13 November 2025 the Tribunal received an email from the Applicant's representative with a further copy of the evidence of service previously submitted. On 14 November 2025 the Tribunal received evidence to support the ground for eviction from the Applicant's representative.
- 4 On 5 December 2025 the Tribunal wrote again to the Applicant's representative. The Tribunal advised that the Applicant's representative had not provided a notice to leave and had provided an unsigned certificate from the Applicant's representative as proof of delivery. The Tribunal again requested a copy of the notice to leave, proof of posting and delivery, evidence of agreement for postal service in the absence of a tenancy agreement, a correct section 11 notice with proof of service, and confirmation that the Applicant's representative wished to withdraw the notice to leave that did not relate to the parties.
- 5 The Tribunal received no response from the Applicant's representative. On 3 February 2026 the Tribunal wrote again to the Applicant's representative requesting the information within seven days or it was likely the application would be rejected.
- 6 No further response has been received from the Applicant's representative as at the date of this decision.

### **Reasons for decision**

- 7 The Legal Member has determined that the application should be rejected in terms of Rule 8(1)(c) of the Rules, 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*".
- 8 Rule 109 is in the following terms:-

*"Where a landlord makes an application under section 51(1) (for an eviction order) of the 2016 Act, the application must—*

*(a) state—*

- (i) the name, address and registration number (if any) of the landlord;*
- (ii) the name, address and profession of any representative of the landlord;*
- (iii) the name and address of the tenant; and*
- (iv) the ground or grounds for eviction;*

*(b) be accompanied by—*

- (i) evidence showing that the eviction ground or grounds has been met;*
- (ii) a copy of the notice to leave given to the tenant as required under section 52(3) of the 2016 Act; and*
- (iii) a copy of the notice given to the local authority as required under section 56(1) of the 2016 Act; and*

*(iv) a copy of Form BB (notice to the occupier) under schedule 6 of the Conveyancing and Feudal Reform (Scotland) Act 1970 (if applicable), and  
(c) be signed and dated by the landlord or a representative of the landlord.”*

- 9 The basis of the decision is the Applicant’s failure to provide the information required for an application under Rule 109, which includes a notice to leave and evidence of the method of delivery to the tenant. The Applicant, via their representative, has been asked to provide the documents on three occasions. They have been advised that their application may be rejected if they do not respond. They have therefore been given the opportunity to address the outstanding matters.
- 10 The Legal Member has therefore determined that, based on the Applicant’s failure to provide the information and cooperate with the Tribunal, it would not be appropriate to accept the application. The application does not in its current form comply with the mandatory requirements of Rule 109 and must therefore be rejected.

### **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal 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.**

# R. O'Hare

10 March 2026

---

Legal Member/Chair

---

Date