



Decision and statement of Reasons of the First Tier Tribunal (Housing and Property Chamber)

Under Rule 8 of the First Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ‘the Rules’.

In respect of an application by Mr Anthony Fortunato in terms of rule 65 of the rules.

At Glasgow on the 3 August 2026, Lesley Anne Ward, legal member of the First –Tier Tribunal ‘the Tribunal’ with delegated powers of the Chamber President, rejected the above application in terms of Rule 8(1)(c) of the Rules.

1. This is an application by Mr Antony Fortunato the owners of the property at 17 B Baltic Street Montrose DD10 8EX ‘the property’, for recovery of possession of the property in terms of Rule 65.
2. The application was dated 5 May 2026 and received by the tribunal on 11 May 2026.
3. The inhouse convenor reviewed the application and the Tribunal wrote to the applicant on 29 May 2026 as follows:

We have received your eviction application. We note it is incomplete and there is no supporting documentation. It will not be considered until you provide a completed application and provide supporting documentation.

Please also note that seeking to sell the property is not a valid eviction ground for an assured tenancy. Please provide an amended application with valid eviction grounds and all relevant supporting documentation in terms of rule 65 (undernoted) within 14 days, failing which it is likely the President will decide to reject the application.

Rule 65 Where a landlord makes an application under section 18(1) (orders for possession) of the 1988 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 possession grounds which apply as set out in Schedule 5 of the 1988 Act; (b)be accompanied by— (i)a copy of the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the landlord can give; (ii)a copy of the [F45notice served on the tenant by the landlord] of intention to raise proceedings for possession of a house let on an assured tenancy; (iii)a copy of the notice to quit served by the landlord on the tenant (if applicable); and (iv)evidence as the applicant has that the possession ground or grounds has been met;

F46... [F47(v)a copy of the notice given to the local authority by the landlord under section 11 of the Homelessness (Scotland) Act 2003 (if applicable), and (vi)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.

4. The applicant replied on 9 June 2026 by providing an amended application and some supporting documentation.
5. The in-house convenor reviewed the application and a further request for information was sent on 24 June 2026 as follows:

The tenancy agreement which you have enclosed indicates that the tenancy is a short assured tenancy governed by the provisions of the Housing (Scotland) Act 1988. The notice to leave which you have provided relates to private residential tenancies which are governed by the provisions of the Private Housing (Tenancies) (Scotland) Act 2016. The notice to leave which you have enclosed is not the appropriate form of notice to be served in a short assured tenancy. That notice only applies to a private residential tenancy.

It should also be noted that the notice is undated, and you have provided no evidence of the method of delivery of this notice to the tenant and receipt of the notice by the tenant.

Can you please provide evidence that you have served the appropriate and correct notices upon the tenant in respect of the termination of a short assured tenancy and provide copies of those notices together with evidence of the method of the service of the tenant.

If you accept that the tenancy is a short assured tenancy and that you have not served the required notices upon the tenant, please confirm that you seek to withdraw this application. Alternatively, please explain why you believe the tenancy is a private residential tenancy or if you accept the tenancy is a short assured tenancy, please explain the basis upon which you believe that the notice you have served complies with the various requirements of the 1988 Act. You have not provided a copy of the notice which is required to be given to the local authority under section 11(3) of the Homelessness etc. (Scotland) Act 2003.

Please provide a copy together with evidence of the method and date on which that was given to the local authority. Further queries may arise upon receipt of your responses. The tribunal would strongly suggest that you may find it useful to seek independent legal advice on this application, the matters contained in this letter and any further action which you wish to take. There is a section of the tribunal website which contains information and links to advice agencies and sources of independent advice. Upon receipt of the above information, a final decision can then be taken on whether the application is valid and whether it should be accepted and referred to the tribunal for full determination. Please respond to this letter within the next two weeks.

6. No reply has been received.
7. In terms of rule 8(1)(c) the President must reject an application if they have a good reason to believe it would not be appropriate to accept it. I have decided to reject the application. It is incomplete and the applicant has failed to respond to a reasonable request by the Tribunal for further information of 24 June 2026 and has therefore

failed to cooperate with the Tribunal in the execution of its duties. It is open to the applicant to resubmit the application with the correct supporting documentation.

NOTE: What you should do now.

If you accept this decision there is no need to reply.

If you disagree with this decision you should note the following:

An applicant aggrieved by this 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 seek permission to appeal within 30 days of the date the decision was sent them. Information about the appeal procedure can be forwarded on request.

Lesley Ward

Lesley Anne Ward

Legal Member