



**DECISION AND STATEMENT OF REASONS OF PETRA HENNIG MCFATRIDGE 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 Procedural Rules")

in connection with

Case reference FTS/HPC/EV/26/1539

Parties

Mr Craig MacPherson (Applicant)

Corrigall Black Solicitors (Applicant's Representative)

North Lodge, Dunclutha Lane, Kirn, PA23 8LH (House)

1. On 7.4.26 the First –tier Tribunal for Scotland, Housing and Property Chamber (FTT) received an Application for an order for possession under 65 of the Procedural Rules based on ground 11 “the tenant has persistently delayed paying rent which has become lawfully due”.
 - a) a Notice to Leave form under the Private Housing (Tenancies) (Scotland) Act 2016 dated 2.3.26 with proof of postage.
 - b) a form AT6 stating ground 11 dated 29.1.26 but not providing the information in part 4 regarding the date when proceedings could first be raised.

- c) a S 11 notice and proof this had been sent to the local authority
- d) an email dated 13.3.26 from the applicant to his solicitors stating he is unable to locate the lease and stating it commenced on 16.9.13 for a monthly rent of £550 and no rent had been paid since 27.3.17
- e) a letter from the tenant to the solicitors dated 7.10.21 confirming she had stopped paying rent in 2017 because she had been notified the property would be repossessed by the lender and enquiring about the status of ownership of the property.

2. On 5.5.26 the FTT wrote to the applicant requesting the following information: 1 You have produced a notice to leave which applies to private residential tenancies, not assured tenancies. Please confirm that this can be withdrawn from the case papers. 2 Please provide a notice to quit along with proof that this has been delivered to the tenant. Alternatively, please explain the legal basis upon which the application can proceed without a notice to quit. 3 The Form AT6 does not state the date on which proceedings can be raised at Part 4. Please explain why you believe the AT6 can be accepted as valid in the absence of this information. 4 The Form AT6 is dated 29 January 2026, however you have produced a postal receipt dated 2 March 2026. Please provide proof that the AT6 produced was delivered to the tenant. If a second AT6 was sent to the tenant please provide a copy of this. Please also provide the tracking information from Royal Mail confirming delivery of the notice. 5 Please provide a rent statement in a table with columns that show the rent due date, rent due, payments received, and a running balance of arrears, dating back to when the arrears began to accrue. 6 Please provide any evidence of the landlord's compliance with the rent arrears preaction protocol. 7 Please provide evidence of landlord registration, or an explanation as to why the applicant is not on the landlord register. 8 The Sasine Register states that the owner of the property is William McGowan. Please explain the legal basis upon which the applicant has title to let the property and make the application.
3. On 19.5.26 the solicitors replied: We enclose a copy of the Notice to Quit that was issued to the tenant on 10 April 2026, as well as a Certificate of Posting. Our client has not kept a running total of how much rent is due to him, as it has been a large amount of time that rent due to him has not been paid. We were unaware, when we initially submitted the application to the Tribunal, that Craig MacPherson was not a registered landlord. We have since queried this with Craig MacPherson and we are awaiting a response. We have examined the Sasine title of North Lodge and note that William McGowan was the previous owner of the property, and title transferred has since transferred to Craig MacPherson. We confirm that the existing Notice to Leave can be removed from the case papers. However, no attachments were received with the email.

4. The FTT wrote again on 12.6.26 requesting the following information: We refer to our email of 5 May 2026 and your reply of 19 May 2026. Please note that the notice to quit and certificate of posting were not attached. Please also note that the remaining matters raised in our email of 5 May 2026 remain outstanding. Please reply to each matter in turn using our numbering. If your client is relying on ground 11 a rent statement will be required to establish the eviction ground. Please also reply to the following additional matters: 1. Please provide a copy of the tenancy agreement. 2. Please comment on the email you have provided from the tenant dated 7 October 2021 which states that she is withholding rent. Please respond to all matters raised within 14 days. If you do not respond it is likely the President will decide to reject the application. Please reply to this office with the necessary information by 26 June 2026. If we do not hear from you within this time, the President may decide to reject the application.
5. No further reply has been received.
6. The documents contained in the case file are referred to for their terms and held to be incorporated herein.

DECISION

7. I considered the application in terms of Rule 8 of the 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."

8. After consideration of the application, the attachments and correspondence from the Applicant, I consider that the application should be rejected in terms of Rule 8 (c) of the Rules of Procedure on the basis as the Tribunal has good reason to believe that it would not be appropriate to accept the application.

REASONS FOR DECISION

9. The Application is made in terms of Rule 65 of the Rules of Procedure. This relates to orders for possession in relation to assured tenancies under S 18 (1) of the Housing (Scotland) Act 1988.
10. The application was not accompanied by a valid Notice to Quit which meets the requirements for a notice terminating the contractual relationship between parties of a tenancy under the Housing (Scotland) Act 1988. The applicant had provided a notice to leave document under the Private Housing (Tenancies) (Scotland) Act 2016, which is not a valid Notice to Quit under the Housing (Scotland) Act 1988 and does not contain the information required in terms of the Assured Tenancies (Notices to Quit Prescribed Information)(Scotland) Regulations 1988 as amended for a valid Notice to Quit. Thus no Notice to Quit for the tenancy agreement has been produced. The requirement for a Notice to Quit cannot be dispensed with in this case because no tenancy agreement was produced and it cannot be evidence that the lease made provision for it to be brought to an end on the ground in question as required by s 18(6) of the 1988 Act. The Notice to Quit dated 10.4.26 and referred to in the email to the FTT from the applicant's solicitors was never produced.
11. Rule 65 requires an AT6 notice. The AT6 document provided was incomplete as it did not state the date when proceedings could be raised. There was no evidence that the AT6 notice was actually ever served on the tenant.
12. The Applicant has not lodged a Notice to Quit. She has not provided a valid AT6 notice. The application thus does not comply with the lodging requirements stated in rule 65 b (ii) and (iii) of the Rules of Procedure.
13. For the reasons stated above it would not be appropriate for the Tribunal to accept the application as this does not fulfill the lodging requirements of a valid 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.

Petra Hennig McFatridge

Legal Member

19 August 2026