Housing and Property Chamber
First-tier Tribunal for Scotland

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/26/3013

Parties

Miss Michelle Brown (Applicant)

9 The Groves, Bishopbriggs, Glasgow, G64 1QJ (House)

1. On 30.6.26 the First Tier Tribunal for Scotland Housing and Property Chamber (FTT) received the application, which was made under rule 109, which relates to tenancies under the Private Housing (Tenancies) (Scotland) Act 2016 (the 2016 Act) and stated as the ground applicable ground 1. The applicant stated that notice had been served by hand but did not state the date and advised in the application form that the notice to leave had been served by email on 16.3.26. The application was ultimately lodged with a copy of the tenancy agreement dated 4.4.25, a notice to leave document not in the statutory format and undated and unsigned, a S 11 notice document not in the statutory format, an email to the local authority dated 30.6.26 sending the home report and the S 11 document and a home report.

2. The FTT wrote to the applicant on several occasions requesting further information and advising the applicant of problems with the documentation provided. The applicant did not reply to the last information request on 4.9.26 with a reply date of 18.9.26 stated in the letter.
3. The applicant contradicted herself in the information provided regarding the date the notice to the tenant was served by stating 16.3.26 in the application and the information provided to the local authority but 10.3.26 in the document sent to the tenant. The last request for further information sought to clarify this by asking her when the document was hand delivered and by whom and by asking for evidence that the tenant had received the notification. No reply was forthcoming by 9.11.26.
4. The file documents are referred to for their terms and held to be incorporated herein.

DECISION

5. 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."

6. **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

1. The lodging requirements for an application under rule 109 (b) include the requirement to lodge (i) evidence that the 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, (iii) a copy of the notice given to the local authority under S 11 of the Homelessness (Scotland) Act 2003 as required in s 56 of the 2016 Act.
2. S 52 of the Act states that an application for eviction must be accompanied by a copy of a notice to leave which has been given to the tenant. Although a notice document was provided, the Tribunal considers that this was not a valid Notice to Leave. The document was not in the format prescribed by schedule 5 of The Private Residential Tenancies (Prescribed Notices and Forms) (Scotland) Regulations 2017 as amended. In particular it did not contain the initial information to tenants about where to seek advice in general, advice about homelessness, information about the notice periods and did not contain the information in parts 3 and 4 of the prescribed notice format. It did not advise of the number of the ground used. It did not specifically advise the tenant of the earliest day when the landlord can apply to the FTT and stated that "As this notice is served on 10th March 2026, the notice period will end on 2 June 2026. You are therefor required to leave the property on or before this date. If you remain in the property after this date, I may apply to the first tier Tribunal for Scotland(Housing and Property Chamber) for an eviction order. You may wish to seek advice about your rights from Shelter Scotland or Citizens Advice Scotland." It did not advise the tenant of the statutory notice periods. It did not provide the list of the grounds stated in the 2016 Act. The FTT considers that it was not a Notice to Leave as required by the 2016 Act and thus the application remains incomplete.
3. The FTT considered whether the Notice to Leave could be considered valid in terms of S 73 of the 2016 act. However the FTT considers that in this case the non-compliance with the statutory form is material and does affect the effect of the document. The legislation set out specific information that has to be provided to a tenant in a Notice to Leave, in

particular the notice periods and the date when proceedings can be raised. This information was not contained in the document provided and is not an "error in the completion of a document" but a clear deviation from the statutory form, which disadvantages the tenant. The tenant cannot ascertain whether the notice period has been complied with from the information in the document. The landlord must use the statutory form for a Notice to Leave and has not done so.

4. The FTT had also already advised the applicant that the notice period would be a day short if it was served indeed by hand or 3 days short if served by email on 10.3.26 . The application form and the notification to the local authority both state that the notice to leave was served on the tenant on 16.3.26, which contradicts the date stated on the notice document submitted. In correspondence of 28.7.26 and on 4.9.26 the FTT again asked about the specific date when the notice had been served and confirmation that the email used was indeed the email of the tenant. The applicant did not reply to the latest further information request of 4.9.26 although a reply date of 18.9.26 had been stated in the letter. The applicant stopped corresponding with the FTT after her last email on 10.8.26. The FTT considers that the lack of reply indicates that the applicant has abandoned the application.
5. S 56 of the Act specifies that a landlord may not make an application to the FTT for an eviction order against a tenant unless the landlord has given notice of the landlord's intention to do so to the local authority in whose area the let property is situation and S 56 (2) provides that this notice is to be given in the manner and form under section 11 (3) of the Homelessness etc (Scotland) Act 2003. The requirements of such a notice is set out in Regulation 2 and Schedule 1 of The Notice to Local Authorities (Scotland) Regulations 2008 as amended by The Notice to Local Authorities (Scotland) Amendment Regulations 2017. Schedule 1 of the 2008 regulations sets out the format of the form that has to be used. Such a form has not been included in the application documents. What the applicant has provided is a page with some of the required information, which she sent to the local authority on 30.6.26 together with a home report. The document described as a s 11 notification does not provide the start date of the tenancy and the date of raising proceedings. Whilst most of the other information prescribed has been provided, the notice is nevertheless not technically a notice as required by S 56 of the 2016 Act. S 73 of the Act does not apply to a S 11 notice.
6. It would not be appropriate for the Tribunal to accept an application which is incomplete and does not meet the lodging requirements in terms of rule 109 of the Procedure Rules and the requirements for a valid application stated in the 2016 Act as set out above.
7. Because the application at present does not fulfil the lodging criteria stated in the relevant rule it is rejected as it would not be appropriate for the FTT to accept an incomplete application.
8. The application is also rejected on the basis that the applicant apparently no longer insists on the application and has not responded to further information requests. It would not be appropriate to allow the application to be accepted if the applicant is not co-operating with the application process.

9. For the avoidance of doubt, this decision does not prevent the applicant lodging a fresh application once all the necessary and valid documentation becomes available.

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
9 November 2026