

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”)

Case reference FTS/HPC/EV/23/3267

Parties

Claire Manning (Applicant)
Lisa Gough (Respondent)

6 Sinclair Street, Clydebank, G81 1AE (the Property)

Legal Member

Ruth O’Hare, with delegated powers from the Chamber President

Background

1. This application was made under Rule 65 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”).
2. On 11th October 2023 the Tribunal wrote to the Applicant’s representative in the undernoted terms:-

“Before a decision can be made, we need you to provide us with the following:

You have indicated that the application is to proceed under Rule 65 (assured tenancy) but the information provided suggests that it is a PRT as it started after 1 December 2017. If this is the case please provide the following

- 1. A copy of the written agreement, if available.*
- 2. A copy of the Notice to leave in the prescribed format, with evidence that it was sent to the respondent. Please note that an AT6 is not relevant for this type of tenancy.*
- 3. A copy of the section 11 notice with evidence that it was sent to the Council. This is required for all eviction applications.*
- 4. Evidence in support of the eviction ground such as a copy of the contract with the selling agent.*
- 5. Confirmation that that application is to proceed under Rule 109 and not Rule 65*

If the tenancy started before 1 December 2017, please provide the following

- 1. A copy of the written tenancy agreement.*

2. *A valid AT6 notice with evidence of service. The notice lodged is incomplete as you have not specified a ground in terms of schedule 5 of the 1988 Act. Please note that this is required. Please also note that - landlord intends to sell – is not a valid ground under the 1988 Act.*
3. *A section 11 notice with evidence that it was sent to the Council*
4. *A valid Notice to quit with evidence that it was served on the tenant.*
5. *Evidence in support of the eviction ground.*

You may wish to take legal advice before you respond. Please reply to this office with the necessary information by 25 October 2023. If we do not hear from you within this time, the President may decide to reject the application.”

3. The Applicant responded in a series of three emails on 13th October 2023. In summary the Applicant advised that she was unclear on the position and requested guidance. On 16th October 2023 the Tribunal responded to advise *“Unfortunately, the Tribunal are unable to provide you with any legal advice or guidance as we are a fair and impartial body. We can however direct you to the relevant section of our website where you can find links that you may find useful in seeking your own independent advice: [## **Decision**](https://www.housingandpropertychamber.scot/useful-links.”</i>4. The Tribunal received no further response from the Applicant. On 15th November 2023 the Tribunal emailed the Applicant again to request a response to the email of 11th October 2023. The Applicant was again warned that in the absence of further information her application may be rejected. No further response was received from the Applicant.</div><div data-bbox=)*

5. The circumstances in which an application is to be rejected are governed by 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."

6. After consideration of the application and the lack of any further correspondence from the Applicant, the Legal Member considers that the application should be rejected on the basis that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

Reasons for Decision

7. The Applicant was given the opportunity to provide further information by way of the requests from the Tribunal on 11th October 2023 and 15 November 2023. Whilst the Tribunal accepts that the Applicant is a lay person, she was directed to seek legal advice to assist her with the application and the information sought by the Tribunal. As at the date of this decision the Applicant has failed to provide the information requested. This additional information requested was necessary to allow the application to proceed. The Applicant was warned on two occasions that failure to respond may lead to the application being rejected. In the absence of any response from the Applicant it would not be appropriate to accept the application and it should therefore be rejected.
8. It would be open to the Applicant to submit a new application with the necessary information and the Tribunal would encourage her to seek independent legal advice if she wishes to do this in future.

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.