

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/23/3687

**Parties**

**The Alfred Stewart Foundation Ltd (Applicant)**  
**Morgans (Applicant’s Representative)**  
**Kieran David Wallis (Respondent)**

**17 Chapel Street, Dunfermline, KY12 7AW (the Property)**

**Legal Member**

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

**Background**

1. This application was made under Rule 66 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”).
2. On 8<sup>th</sup> November 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:*

*1. The Notice to Quit does not state the date on which it is to take effect. This would appear to invalidate the Notice. You may wish to submit written representations on this matter, however, you may be advised consider withdrawing the application and serving a further Notice. You may wish to take advice in this regard to ensure that the Notice is compiled and served correctly.*

*You should also be aware of the following:*

*2. We would require a mandate from the Applicant authorising you to act on their behalf.*

*3. We would require tracking information to show receipt of the Notices.*

*4. We would require a proper address for the Applicant. For a limited company this is usually their registered address.*

5. *We would require evidence of service of a section 11 notice upon the local authority.*

6. *You state grounds of eviction in the application form, but there are no grounds of eviction in a Rule 66 application. If you intend to found upon any circumstances to show reasonableness, it would be in the Applicant's interests to lodge evidence to support reasonableness prior to a Case Management Discussion.*

7. *Some applications are affected by The Cost of Living (Protection for Tenants) (Scotland) Act 2022. Please see the information in the attached letter.*

*Please reply to this office with the necessary information by 22 November 2023. If we do not hear from you within this time, the President may decide to reject the application."*

3. The Tribunal received no response. On 19<sup>th</sup> December 2023 the Tribunal wrote again to the Applicant's representative requesting a response to the Tribunal's email of 8<sup>th</sup> November 2023. The Applicant's representative was warned that, in the absence of a response, the application may be rejected by the President. There was no further response from the Applicant's representative.

## **Decision**

4. 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."*

5. After consideration of the application and the lack of any further correspondence from the Applicant or their representative, 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**

6. The Applicant was given the opportunity to provide further information by way of the requests from the Tribunal on 8<sup>th</sup> November 2023 and 19<sup>th</sup> December 2023. As at the date of this decision neither the Applicant nor their representative have provided the information requested. This additional information requested was necessary to allow the application to proceed. The Applicant's representative 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.
7. It should be noted that the Applicant has since submitted a second application relating to the same parties and tenancy however on the basis that the present application has not been formally withdrawn it is necessary for the Tribunal to issue its decision on the application.

**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.

**Ruth O'Hare, Legal Member**

**19 January 2024**