



**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/24/0648

**Parties**

**Mr Iain Brown (Applicant)**

**Mr Leslie Watt (Respondent)**

**Premier Properties Perth (Applicant's Representative)**

1. On 9.2.24 the Applicants' representative made an application under Rule 109 of the Procedural Rules, being an application for an eviction order under S 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (the Act). This was made on grounds 1 and 12. The application was accompanied by a Notice to Leave document dated 9.2.24, which stated as the date proceedings could first be raised the date of 6.5.24.
2. On 8.3.24 the FTT wrote to the Applicants' representatives advising that the application was premature, advising that if they wished to have the application

considered before the expiry of the notice period the FTT would require representations in terms of S 52(4) of the Act as to why it should consider it reasonable to entertain the application.

3. The Applicants' representative replied in two emails with further information, however, these did not address the issue of the application being premature.
4. The documents referred to above 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**

7. Applicable legislation:

Rule 109 (b) of the Procedural Rules an application for an eviction order under S 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (the 2016 Act) has to be accompanied by:

- i. evidence showing that the eviction 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 as required under section 56 (1) of the 2016 Act

S 54 of the Private Housing (Tenancies) (Scotland) Act 2016 Restriction on applying during the notice period

(1)A landlord may not make an application to the First-tier Tribunal for an eviction order against a tenant using a copy of a notice to leave until the expiry of the relevant period in relation to that notice.

8. The Notice to Leave provided states as the date proceedings can first be raised 6.5.24. The application was lodged on 9.2.24 and the application is thus premature. No representations in terms of S 52(4) of the Act were received.
9. It would not be appropriate for the Tribunal to accept the application at this stage as it is premature. The application is thus rejected. This rejection decision does not prevent a new application to be raised once the Notice to Leave date stated in part 4 of the document has been reached. Any such application would have to be made in accordance with the requirements under the applicable rule stated in the Rules of Procedure.

## **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.**



Legal Member

4 April 2024