



**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/24/1779

**Parties**

**Harry Smith Ltd (Applicant)**

**Ms Saiqa Akram (Respondent)**

**Belvoir Glasgow North (Applicant's Representative)**

1. On 22.4.24 the First –tier Tribunal for Scotland, Housing and Property Chamber (FTT) received an Application for an order for possession under Rule 66 of the Procedural Rules and s 33 of the Housing (Scotland) Act 1988.
2. The FTT asked for confirmation of the service of the Notice to Quit and S 33 documents on the tenant. The Applicant's agent replied on 30.5.24 that the documents had not been successfully served and that a new Notice to Quit and S 33 had been issued and served by Sheriff Officers. The new documents were attached and show that both state the tenants have to quite the property by 2.8.24 and the landlord requires vacant possession by 2.8.24.

3. The documents contained in the case file are referred to for their terms and held to be incorporated herein.

## DECISION

4. 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."*

5. 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**

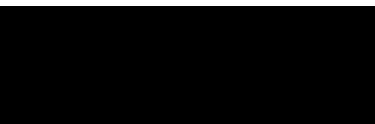
6. The Application is made in terms of Rule 66 of the Rules of Procedure. This relates to orders for possession in relation to assured tenancies under S 33 of the Housing (Scotland) Act 1988.
7. At present the notice period in the Notice to Quit has not expired and the 2 months period in terms of S 33 (2) as not expired. S 33 (1) of the Housing (Scotland) Act 1988 requires that the short assured tenancy has reached its finish and tacit relocation is not operating. At present the notice period has not expired, the contractual tenancy has not been terminated and the two months notice period to 2.8.24 has not expired. The application is premature. It can only be made after the date stated in the notices.
8. For the avoidance of doubt, this decision does not impact the Applicant's ability to make a fresh application once the notice period has expired and the short assured tenancy has reached its ish.
9. For the reasons stated above it would not be appropriate for the Tribunal to accept the 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 McFatrige  
Legal Member  
14 June 2023