



**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/24/4917

Parties

Miss Gillian Edwards (Applicant)

Miss Seona Galbally (Respondent)

The Neuk, Drunzie Feus, Glenfarg, PH2 9PE (House)

1. On 24.10.2024 the First-tier Tribunal (FTT) received an application in terms of Rule 109.
2. The documents lodged with the application were: A copy of the Notice to Leave missing the first page, a copy of the tenancy agreement. Subsequently the Applicant also lodged a recorded delivery slip dated 1.11.2024, a letter explaining her personal situation, a copy of her birth certificate, a letter from the Respondent confirming receipt of the Notice to Leave on 8.5.2024 and a document headed Recommendations Report for the property.

3. On 4.12.2024 the FTT wrote to the Applicant requesting, amongst other information, a copy of the notice to the local authority as per S 56 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 (the 2016 Act).
4. No answer was received and no further documentation submitted.

DECISION

1. 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."

2. 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.

Relevant Legislation

Application for civil proceedings in relation to a private residential tenancy

Application for an eviction order

109. Where a landlord makes an application under section 51(1) (for an eviction order) of the 2016 Act, the application must—

(a)state—

- (i)the name, address and registration number (if any) of the landlord;
- (ii)the name, address and profession of any representative of the landlord;
- (iii)the name and address of the tenant; and
- (iv)the ground or grounds for eviction;

(b)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; and
- (iii)a copy of the notice given to the local authority as required under section 56(1) of the 2016 Act; and

(c)be signed and dated by the landlord or a representative of the landlord.

REASONS FOR DECISION

3. No S 11 notice to the local authority as required by s 56 of the 2016 Act was supplied by the Applicant.
4. The Applicant was clearly advised that the application was incomplete and that the application may be rejected unless the documentation was provided.
5. In terms of Rule 109 (b) (iii) the application must be accompanied by the notice given to the local authority as required under section 56 (1) of the 2016 Act. This was not provided.
6. Given that the application does not fulfil the lodging criteria for an application of that nature in terms of Rule 109 of the Procedure Rules, it would not be appropriate for the Tribunal to accept the incomplete application.
7. The Tribunal had given the Applicant ample opportunity to provide documents and information which would cure these defects. No reply was received to the request issued on 4.12.2024.

8. The application it is therefore rejected.

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.

P Hennig-McFatrige

Legal Member
11 February 2025