



**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/25/0510

**Parties**

**Mrs Johanna Chalmers (Applicant)**

**111 Lochlann Road, Culloden, Inverness, IV2 7HB (House)**

1. On 5.2.25 the First –tier Tribunal for Scotland, Housing and Property Chamber (FTT) received an Application for an order for possession under Rule 65 of the Procedural Rules and s 18 of the Housing (Scotland) Act 1988 (the 1988 Act) , dated 09.01.24. The only documents submitted were the tenancy agreement between the parties, commencing on 28.8.14 with an initial ish date of 28.2.15 and continuation thereafter month to month (clause 2), a Notice to Leave under the Private Housing (Tenancies) (Scotland) Act 2016 (the 2016 Act) dated 28.10.24 to the date of 7.9.24 in part 4 and an AT6 notice under what is states as ground 1 Landlord intends to sell Property and ground 11 breach of tenancy conditions as the tenant’s son is alleged to have moved in and registered a company at the address without permission. The AT6 document is dated 3.2.25 and states as the earliest date of raising proceedings 10.4.25. The

Applicant also provided several letters to the Respondents, which had alerted the Respondents since October 2023 that the Applicant intended to sell the property. The Applicant did not provide any evidence that the grounds applied, any evidence to show how and when the documents were served on the tenants and did not include a S 11 notice to the local authority.

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

## DECISION

3. 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."*

4. 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**

5. The Application is made in terms of Rule 65 of the Rules of Procedure. This relates to orders for possession in relation to assured tenancies under S 18 (1) of the Housing (Scotland) Act 1988.
6. Rule 65 (b) requires the following documents to be provided with an application: (i) a copy of the tenancy agreement or, if this is not available, as much information about the tenancy as the landlord can give, (ii) a copy of the notice served on the tenancy by the landlord of intention to raise proceedings for possession of a house let on an assured tenancy, (iii) a copy of the notice to quit served by the landlord on the tenant (if applicable), (iv) evidence that the possession ground or grounds has been met, (v) a copy of the notice given to the local authority by the landlord under section 11 of the Homelessness (Scotland) Act 2003.
7. The application was not accompanied by a Notice to Quit. The Applicant had issued a Notice to Leave in terms of S 62 of the Private Housing (Tenancies) (Scotland) Act 2016, which is not a relevant document for an assured tenancy under the Housing (Scotland) Act 1988 to which the application relates. The Notice to Leave does not contain the relevant and necessary information set out in the statutory requirement for a Notice to Quit in terms of the the requirement under the Assured Tenancies (Notices to Quit Prescribed Information) (Scotland) Regulations 1988 as amended by Regulation 3 of the First-tier Tribunal for Scotland Housing and Property Chamber (Incidental Provisions) Regulations 2019 and in force at the time the Notice was issued. It relates to a different type of tenancy, to a Private Residential Tenancy, which in turn would be a tenancy entered into after 1.12.2017 and not to assured tenancies under the 1988 legislation. It refers to the grounds stated in schedule 3 of the 2016 Act and not to the grounds stated in schedule 5 of the 1988 Act, which would be relevant to the type of tenancy provided. Finally, the date stated in the Notice to Leave, 24.9.24 was a date prior to the date when the Notice to Leave was issued and would not have been a valid ish date for a Notice to Quit in any event. Thus the application was not accompanied by a Notice to Quit.
8. The AT6 notice provided states as the date when proceedings can first be raised 10.4.25 and thus any application using this notice would be premature at this stage. Furthermore, the AT6 notice again does not relate to grounds stated in the relevant legislation, schedule 5 of the 1988 Act, but narrates grounds stated in schedule 3 of the

2016 Act, which do not apply to the tenancy in question. In particular, the intention to sell the property is not a valid ground in terms of the tenancy in question as this is not a ground for possession listed in schedule 5 of the 1988 Act at all. What is referred to in the AT6 document as ground 11 would potentially be covered by ground 13 of schedule 5 to the 1988 Act but was quoted with the wrong ground number in the AT6 document. For the reasons above, the AT6 document lodged does not support an application at this time.

9. The applicant also did not provide the notice given to the local authority as required. In terms of S 19A of the 1988 Act, a notice under S 11 of the Homelessness etc. (Scotland) Act 2003 is necessary to raise proceedings for possession and this was not provided at all.
10. Finally, the Applicant had not included any evidence for the grounds she had stated as the grounds for raising the proceedings.
11. For the reasons stated above it would not be appropriate for the Tribunal to accept the application as this does not fulfill the requirements of a valid application in terms of rule 65 and specifically did not meet the requirements stated in rule 65 (b) (ii), (iii), (iv) and (v).
12. For the avoidance of doubt, this decision will not prevent the Applicant to make a fresh application once all required documents are available.

#### **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

7 March 2025