



**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/25/0438

**Parties**

**Mrs Katrin Ironside (Applicant)**

**Bowman Rebecchi Residential Letting Limited (Applicant's Representative)**

**Flat 2/1, 9 Ardgowan Street, Greenock, PA16 8LE (House)**

1. On 2.2.25 the First Tier Tribunal for Scotland Housing and Property Chamber (FTT) received the application, which was made under rule 109, which relates to tenancies under the Private Housing (Tenancies) (Scotland) Act 2016 (the 2016 Act) and stated as the grounds applicable cases 10, 11 and 12. The applicant's representative stated that notice had been served but the tenant stayed in situ not paying the correct rent.
2. The application was accompanied by a Notice to Leave dated 2.10.24 with a date in part 4 stated as 2.1.25. Part 2 of the Notice to Leave referred only to ground 5 , a

family member of the landlord intends to live in the property, but in part 3 under details of the eviction ground the entry was : “Your landlord’s intends to sell the Let Property”

3. No evidence that either grounds 5 or 1 are met was provided. The Notice to Leave did not in any way mention grounds 10, 11 and 12.
4. No evidence was provided to show when and how the Notice to Leave would have been served on the tenant.
5. The application was not accompanied by a S 11 notice and proof this had been given to the local authority.
6. The file documents are referred to for their terms and held to be incorporated herein.

## **DECISION**

7. 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."*

- 8. 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**

1. The lodging requirements for an application under rule 109 (b) include the requirement to lodge (i) evidence that the 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 under S 11 of the Homelessness (Scotland) Act 2003 as required in s 56 of the 2016 Act.
2. The applicant has not provided any documentary evidence to support the application of either grounds 5 or 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 with the application. The applicant has provided only a rent statement.
3. The applicant has not provided an explanation in what way ground 10, which refers to the tenant not occupying the property could possibly apply in this case as the application specifically states that the tenant is still occupying the property.
4. S 52 of the Act states that an application for eviction must be accompanied by a copy of a notice to leave which has been given to the tenant. Although a Notice to Leave document was provided, the Tribunal considers that this was not a valid Notice to Leave. It referred in the same document to two contradicting and mutually exclusive grounds for the notice and did not provide any evidence supporting either ground 5 or ground 1. The tenant would not have been able to tell on which ground the Notice to Leave was actually based and as this is a fundamental part of any Notice to Leave, the notice did not provide the tenant with the required information. The Tribunal also notes that the application contained no evidence that the Notice to Leave had in fact been given to the tenant and indeed no such evidence was referred to in the list of documents on the application.
5. S 56 of the Act specifies that a landlord may not make an application to the FTT for an eviction order against a tenant unless the landlord has given notice of the landlord's intention to do so to the local authority in whose area the let property is situated and S 56 (2) provides that this notice is to be given in the manner and form under section 11 (3) of the Homelessness etc (Scotland) Act 2003. The requirements of such a notice is set out in

Regulation 2 and Schedule 1 of The Notice to Local Authorities (Scotland) Regulations 2008 as amended by The Notice to Local Authorities (Scotland) Amendment Regulations 2017. Schedule 1 of the 2008 regulations sets out the format of the form that has to be used. Such a form has not been included in the application documents. Again, such a document was not contained in the list of documents, it was not provided and no information was provided how and when this would have been given to the local authority.

6. It would not be appropriate for the Tribunal to accept an application which is incomplete and does not meet the lodging requirements in terms of rule 109 of the Procedure Rules and the requirements for a valid application stated in the 2016 Act as set out above.
7. Because the application at present does not fulfil the lodging criteria stated in the relevant rule it is rejected as it would not be appropriate for the FTT to accept an incomplete application.
8. For the avoidance of doubt, this decision does not prevent the applicant lodging a fresh application once all the necessary and valid documentation becomes 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 McFatridge

Petra Hennig McFatridge

Legal Member

28 February 2025