



**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/25/1219

Parties

Mrs Ann Clarkson (Applicant)

Arc Property (Applicant's Representative)

Flat 1/5, 87 Dunlop Street, Glasgow, G1 4ET (House)

1. The application dated 14.3.25 was received by the First-tier Tribunal, Housing and Property Chamber (FTT) on 19.3.25 by email. It was lodged under Rule 109 of the Procedural Rules and S 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (the Act). Included with the application were a notice to leave dated 25.3.24 on ground 1 of schedule 3 of the Act showing as the relevant date in part 4 20.6.24 and a copy of the tenancy agreement, the S 11 notice and correspondence relating to the potential sale of the property.

DECISION

2. 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."

3. 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 FTT has good reason to believe that it would not be appropriate to accept the application.

REASONS FOR DECISION

1. In terms of S 52 (3) of the Act an application must be accompanied by a notice to leave which has been given to the tenant. In terms of S55 *“(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 more than six months after the day on which the relevant period in relation to that notice expired.(2)In subsection (1), “the relevant period” has the meaning given in section 54(2).(3)The reference in subsection (1) to using a copy of a notice to leave in making an application means using it to satisfy the requirement under section 52(3).”*
2. The notice to leave lodged with the application relied on ground 1 of schedule 3 of the 2016 Act and was dated 25.3.24. S 54 (2) states for a notice under grounds 1 of schedule 3 a notice period of 84 days. The date entered into part 4 was 20.6.24. Although no evidence of the sending of the notice to leave was provided with the application, if the Tribunal accepts the statement in the application that it was sent on the date it is dated, 25.3.24, the notice period of 84 days thus expired on 19.6.24 and the date of 20.6.24 in part 4 was correctly calculated. The notice to leave as such would be a valid notice to leave.
3. In terms of S 55 the landlord may not make an application to the FTT for an eviction order against a tenant using a copy of a notice to leave more than six months after the day on which the relevant period in relation to that notice expired. The period is to be calculated in terms of S 54 (2). That period was ended as set out above on 19.6.24. The date six months after the notice period expired was thus 19.12.24 and to be valid an application would have had to have been made to the FTT on or before that date.
4. The Tribunal notes that the application form in part 5 states that the tenant had requested an extension of the notice period and that the applicant had stated that this could be extended by 6 months. However, no formal extension of the notice to a different date was provided and the documents lodged only contain the notice to leave as set out above. This notice to leave could not be used for an application after 19.12.24 due to the provision in S 55 (1).
5. The application was not made until 19.3.25, which is 3 months after the cut off point for use of a notice to leave stated in S 55 (1). A valid application using the notice to leave submitted with the application could no longer be made at that date.
6. The application is thus 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.



Petra Hennig McFatridge

Legal Member

9 April 2025