

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rules 8(1)(c) and 26 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Chamber Ref: FTS/HPC/EV/24/5266

95 Burnblea Gardens, Hamilton, ML3 6RP ("the Property")

Parties:

Robert Gallacher ("the Applicant")

Angelina Franchitti ("the Applicant's representative")

Tribunal Member: Ruth O'Hare, Legal Member with delegated powers from the Chamber President

Decision

The Tribunal rejects the application received by it on 14 November 2024 under Rule 8(1)(c) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules").

Background

- 1 On 14 November 2024 the Tribunal received an application under Rule 109 of the Rules and section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The Applicant sought an order for payment in respect of unpaid rent. The application was submitted by the Applicant's representative on behalf of the Applicant.
- 2 Following a review of the application by a Legal Member with delegated powers from the Chamber President, the Tribunal wrote to the Applicant's representative on 17 December 2024 by email in the following terms:-

"1. You used the form for civil proceedings but entered the rule number for an eviction order (rule 109). Please confirm that you are seeking eviction of the tenants? If this is the case please amend the application to state the order you wish to have granted. At present this refers to £1785 rather than to an eviction order. If this application is intended to be a payment application please amend the rule to the rule for civil proceedings."

2. *You mention in the paper apart that there are two tenants, however the S 11 notice only refers to*
 3. *Please provide written authorisation of the agent by the landlord. The document submitted does not appear to deal with representation for proceedings before the Tribunal.*
 4. *The applicant is stated as Robert Gallagher but the landlord registration is in the name of Mary Gallagher. Please provide the title deeds to show who owns the property and if jointly owned either apply in the name of both joint owners or provide written authorisation that the single applicant has the permission of the joint owner to make the application and/or to act as sole landlord.*
 5. *Please provide evidence of the landlord registration of the applicant.*
 6. *Please provide a full copy of the tenancy agreement – you have only provided the odd pages and not the even pages.*
 7. *You have only provided evidence that the Notice to Leave was sent to . You must provide evidence of how and when the Notice to Leave was served on the joint tenant .*
 8. *The application is only made against . The tenancy agreement shows joint tenants . Please explain why the application is only against one joint tenant and how you consider this can be valid.*
 9. *Please provide a rent statement in the format: date- rent due – rent paid – running total of arrears*
 10. *Please provide evidence of how the Pre-action Requirements were complied with.*
 11. *You have then made a different application on a form E under rule 109. If this is a duplicate application please withdraw one of the applications.”*
- 3 The Tribunal requested a response by 31 December 2024. On 18 December 2024 the Tribunal received an email from the Applicant’s representative requesting an extension of the deadline for providing the information. The Tribunal emailed the Applicant on 23 December 2024 agreeing to extend the deadline to 15 January 2025.
 - 4 The Tribunal received no response from the Applicant’s representative. The Tribunal emailed the Applicant’s representative again on 20 February 2025 noting the lack of response and advising that if they failed to provide the information by 6 March 2025 the Tribunal would have no option but to reject the application.
 - 5 No further response was received from the Applicant’s representative.

Reasons for decision

- 6 The Legal Member considered the application in terms of the Rules and determined that the application should be rejected in terms of Rule 8(1) (c) which states that an application must be rejected if the Tribunal has “good reason to believe that it would not be appropriate to accept the application.”
- 7 The basis of the decision is that the Applicant has failed to provide the information requested by the Tribunal under Rule 5(3) of the Rules which is necessary to determine whether all mandatory requirements for lodgement have been met. The Applicant’s representative has been asked for the information on two occasions. They have been granted additional time to provide their response. They have been warned that a failure to provide the information will result in the application being rejected. The Applicant has therefore been given the opportunity to address the outstanding matters. Accordingly the Legal Member has concluded that the Applicant’s failure to provide the information constitutes good reason to reject the application under Rule 8(1)(c).

NOTE: What you should do now.

If you accept this decision there is no need to reply. If you disagree with this decision you should note the following: A party aggrieved by this 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 seek permission to appeal within 30 days of the date the decision was sent them. Information about the appeal procedure can be forwarded on request.

Ruth O’Hare, Legal Member
16 April 2025