



**Decision and statement of Reasons of the First Tier Tribunal (Housing and Property Chamber)**

**Under Rule 8 of the First Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ‘the Rules’.**

In respect of application by Steve Greig in terms of rule 109 of the Rules.

**Case reference FTS/HPC/EV/24/5638**

At Glasgow on the 14 May 2025, Lesley Anne Ward, legal member of the First –Tier Tribunal ‘the Tribunal’ with delegated powers of the Chamber President, rejected the above application in terms of Rule 8(1) (c) of the Rules

1. This is an application by Steve Greig. The applicant made two applications to the Tribunal in terms of rule 109, however in the course of correspondence it became clear that the applicant intended one application to be for eviction and one to recover rent arrears. EV/24/5639 related to the rent arrears application and EV/24/5638 related to the eviction proceedings. Both applications related to the property at 12 Summerside Place Edinburgh EH6 4NZ. The applications were made on 10 December 2024.
2. The inhouse convenor reviewed the applications and the Tribunal wrote to the applicant on 8 January 2025 seeking further information as follows:

Your applications have been reviewed by a Legal Member of the Tribunal with delegated powers of the President. The tenancy agreement that has been provided states that there is a joint tenant – Michelle Williamson. An application for eviction or seeking a payment order requires to be served on both joint tenants. Please confirm the position in relation to the joint tenant.

FTS/HPC/EV/24/5638

- As the tenancy commenced after the 1 December 2017 any eviction application requires to proceed under rule 109. You have specified the correct rule at part 1 however at part 5 it is stated that rule 65 ground 8 is relied upon. Ground 8

in the Private Housing (Tenancies) (Scotland) Act 2016 does not relate to rent arrears. Can you please have regard to the relevant provisions in the Private Housing (Tenancies) (Scotland) Act 2016 and in particular schedule 3 which sets out eviction grounds and confirm the ground and rule you seek to proceed on.

- An eviction application requires a notice to leave to be served on all tenants. Please confirm whether a notice was served on Michelle Williamson or provide an explanation if not.
- Please provide proof of service of the notice to leave, for example a recorded delivery slip.
- Please provide evidence that a notice in terms of section 11 of the Homelessness Etc. (Scotland) Act 2003 has been served.
- Please provide a rent statement in a format showing dates and amounts of rent due, dates and amounts of rent paid and a running total of arrears.

FTS/HPC/EV/24/5639

- In the application form at part 5 you have stated that you seek to proceed under rule 109. This rule relates to applications seeking an eviction order. The application appears to seek an order for payment. An application seeking an order for payment should be submitted under rule 111 for assured tenancies. Please confirm whether you wish to proceed under rule 109 or alternatively submit an amended Form F specifying the correct rule.
- At part 5 (c) you must specify the amount sought in an order for payment. It is not competent to seek an order that the tenant should pay an unspecified amount. It is open to the respondent to request time to pay any order under the Time to Pay provisions in the Debtors (Sc) Act 1987.
- As all documents will be copied to the other parties, please resubmit the bank statements with your personal account details redacted.
- Please provide a rent statement in a format showing dates and amounts of rent due, dates and amounts of rent paid and a running total of arrears.
- It may benefit you to seek advice from a solicitor or advice agency regarding your application if you require further guidance prior to providing a response. Please reply to this office with the necessary information by 23 January 2025. If we do not hear from you within this time, the President may decide to reject the application. If you require any further information, please contact us, quoting your reference number.

3. The applicant responded on 10 January 2025 giving further information. He stated that the joint tenant had left the property around 7 months before and he did not have contact details for her. He also provided an undated copy of a text message which stated 'I received Stevens letter of eviction what update do you want'. No proof of service of the notice to leave was produced and no section 11 notice was provided.
4. The in-house convenor reviewed the applications again and a further request for information was sent on 13 February 2025 as follows:

Your further information in the application for an eviction order has been assessed by a Legal Member of the Tribunal with the delegated authority of the Chamber President. The Legal Member has requested the following information or documentation:

(1) The notice to leave must be served upon both tenants and the application made against both tenants, as this is a joint tenancy that was not formally brought to an end. Please consider withdrawing the application as it cannot proceed against one tenant in a joint tenancy. You may wish to take legal or suitable housing advice on this matter.

You should be aware of the following for any future application:

- (1) Evidence that the Respondent has received the notice to leave on an unspecified date is not sufficient. You must lodge a copy of any recorded delivery posting receipt and tracking report, email or sheriff officer certificate of service, depending on the method of service.
- (2) When proceeding under ground 12, you require to submit a rent statement showing rent due, rent paid and a running total of rent arrears. Please reply to this office with the necessary information by 27 February 2025. If we do not hear from you within this time, the President may decide to reject the application.

5. The applicant did not respond. A reminder was sent on 10 April 2025. The applicant responded on 11 April 2025 reiterating that the sum of '16k' was due. He also expressed his dissatisfaction with the Tribunal and asked for a copy of the complaints process. No further information was provided.
6. In terms of Rule 8(c) of the rules the Chamber President, or another member of the Tribunal acting under the delegated powers of the Chamber President, must reject an application if they have good reason to believe it would not be appropriate to accept it. I have good reason not to accept this application as it is incomplete. Further, the applicant has failed to respond to two reasonable requests by the Tribunal for further information and has failed to cooperate with the Tribunal in the execution of its duties. It is open to the applicant to resubmit the application with the correct supporting information.

**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:

An applicant 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.

**Lesley Ann Ward**

Lesley Anne Ward

Legal Member