



**DECISION AND STATEMENT OF REASONS OF FIONA WATSON, 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 Rules")**

in connection with

**169 Ravenscraig, Kirkcaldy, KY1 2PY ("the Property")**

**Case Reference: FTS/HPC/EV/24/5309**

**Jeff McInnes, 3 Abbots Walk, Kirkcaldy ("the Applicant")**

**Chelsea Kingston, 169 Ravenscraig, Kirkcaldy, KY1 2PY ("the Respondent")**

1. The Applicant submitted an application under Rule 109 of the Rules. The Applicant lodged the following document in support of the application:
  - (a) Copy notice to leave
2. Following a request for further information dated 19 November 2024, the Applicant submitted the following additional documents:
  - (a) Email to Respondent regarding service of the notice to leave dated 23 September 2024;
  - (b) Written consent to act from the joint owner of the Property.
3. In said request dated 19 November 2024, the Applicant was asked to provide evidence to support the grounds for possession. No such evidence was provided.

4. Following another request for further information dated 3 January 2025, the Applicant submitted the following additional documents:
  - (a) Copy tenancy agreement;
  - (b) S11 notice to the local authority and evidence of service of same.

## **DECISION**

5. The Legal Member considered the application in terms of Rule 8 of the Chamber 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.*

6. **After consideration of the application and the documents submitted by the Applicant in support of same, the Legal Member considers that the**

**application should be rejected on the basis that there is good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Rules.**

### **Reasons for Decision**

7. The application seeks to rely on grounds 1 and 3 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”).

8. Ground 1 of the 2016 Act states as follows:

*“1(1) It is an eviction ground that the landlord intends to sell the let property.*

*(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord—*

*(a) is entitled to sell the let property,*

*(b) intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and*

*(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.*

*(3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—*

*(a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,*

*(b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.”*

9. Ground 3 of the 2016 Act states as follows:

*“3(1) It is an eviction ground that the landlord intends to carry out significantly disruptive works to, or in relation to, the let property.*

*(2) The First-tier Tribunal may find that the eviction ground named by sub-paragraph (1) applies if—*

*(a) the landlord intends to refurbish the let property (or any premises of which the let property forms part),*

*(b) the landlord is entitled to do so,*

*(c) it would be impracticable for the tenant to continue to occupy the property given the nature of the refurbishment intended by the landlord, and*

*(d) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.*

*(3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(a) includes (for example)—*

*(a) any planning permission which the intended refurbishment would require,*

*(b) a contract between the landlord and an architect or a builder which concerns the intended refurbishment.*

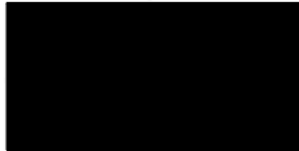
10. In his response to the Tribunal seeking evidence to support ground 1, the Applicant stated *"I will not be instructing an estate agent/solicitor until the refurbishment work is complete."*
11. In his response to the Tribunal seeking evidence to support ground 3, the Applicant stated *"I will be carrying out the refurbishment work personally. No planning or building warrant is required for the works necessary."*
12. Whilst the examples of evidence set out in grounds 1 and 3 are not exhaustive and an applicant may choose to produce other types of evidence to support the ground being relied upon, an applicant does require to provide some evidence to support any grounds of repossession being relied upon in their application. The Applicant has failed to provide any evidence to support either of the grounds being relied upon, nor any specification of the works intended to be undertaken in terms of Ground 3. The application form at Part 5 which requires an applicant to "set out each of the ground/cases for possession/eviction" and "a brief description for each of these grounds/cases of the circumstances that led to the application being made", the applicant has simply inserted *"renovation required and sale."* No further details are provided. The application is accordingly entirely lacking in specification.
13. The application is therefore entirely lacking in the information and specification required and the Legal Member has good reason to believe that it would not be appropriate to accept the application.
14. The Legal Member therefore determines that it would not be appropriate to accept the application. The application is rejected on that basis.

### **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.



Fiona Watson  
Legal Member  
4 April 2025