



**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 Alan Morrison and David Morrison in terms of rule 109 of the Rules.

**Case reference FTS/HPC/EV/25/0194**

At Glasgow on the 4 June 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) a) and (c) of the Rules

1. This is an application by Mr Alan Morrison and Mr David Morrison, the owners of the property at 53 Polmaise avenue Stirling, FK7 0DJ, (‘the property’) for eviction in terms of rule 109 of the Rules. The application was dated 13 January 2025 and received by the Tribunal on 20 January 2025. There was a second application to recover rent arrears.
2. The in-house convenor reviewed the application and the Tribunal wrote to the Applicants on 19 February 2025 seeking further information as follows:

**Eviction Action**

- (1) You have not submitted a copy Notice to Leave with proof of issue to the Respondent and proof of receipt by him. The Notice to Leave should reflect the Ground cited in the application.
- (2) You have cited Ground 8 in your application. Ground 8 relates to a tied tenancy. You have provided a statement of rent arrears. Please amend the application to show the correct Ground or provide the correct evidence in support of Ground 8.
- (3) You have not submitted a copy of the Section 11 Notice to the local authority together with their receipt.

3. The Applicant replied on 20 February 2025 as follows:

I am unable to provide proof of receipt of Notice to Leave as the tenant gave me a work email address when he signed the tenancy, which was the agreed form of communication in the tenancy agreement, however he has since left this employment and has not updated his contact details. I am unable to hand it to him personally as he has become abusive when trying to discuss arrears and this has escalated to threats of physical violence. I therefore posted the notice through the door with a witness present.

4. The Tribunal sent a further email on 27 March 2025 as follows:  
Please confirm the date the Notice to Leave was posted through the letter box and the identity of the witness.
5. The Applicant responded on 29 March 2025 and confirmed the notice to leave was posted on 10 November 2024.
6. The Tribunal sent a further email on 17 April 2025 as follows:

The Notice to Leave ("NTL") appears to be invalid. The NTL is dated 10 November 2024. In terms of section 62(4) of the Act, the date you become entitled to make an application is the day falling after the expiry of the notice. You will note that part 4 of the notice to leave states "An application will not be submitted to the Tribunal for an eviction order before (insert date). This is the earliest date that Tribunal proceedings can start and will be at least the day after the end date of the relevant notice period...." It appears that the date which should have been entered at part 4 was 9 December 2024. Your application cannot succeed without a valid notice to leave. Please confirm that you wish to withdraw the present application to enable you to serve a valid NTL or alternatively explain the basis upon which you think the application can be accepted.

7. No reply has been received.
8. Rule 8(1)(a) of the Rules allows an application to be rejected by the Chamber President if ***"they consider that an application is vexatious or frivolous"***.
9. "Frivolous" in the context of legal proceedings is defined by Lord Justice Bingham in R-v- North West Suffolk (Mildenhall) Magistrates Court (1998) Env.L.R.9. At page 16 he states:- "What the expression means in this context is, in my view, that the court considers the application to be futile, misconceived, hopeless or academic".
10. I consider that this application is frivolous or vexatious and has no reasonable prospect of success. There is no valid notice to leave as the notice to leave provided did not give the correct notice period as required by section 62 of the Private Housing (Tenancies)(Scotland) Act 2016. As the application is on ground 12 and the notice was served by depositing, the notice should have given 28 days plus one day. As noted at paragraph 6 above, 9 December 2024 should have been given.

11. Further, in terms of Rule 8(c) of the rules I have good reason to consider that it would not be appropriate to accept this application as the Applicants have failed to respond to the Tribunal's email of 17 April 2025 and have failed to cooperate with the Tribunal in the execution of its duties

**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.

# L. Ward

Legal Member