



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 8(1)(a) of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/25/1201 and FTS/HPC/EV/25/1202

Re: Property at 1 Hogarth Drive, Parklands, Glasgow, G32 6NU (“the Property”)

Parties:

Mr William McGleish, 6 Springhill Farm Road, Glasgow, G69 6GW (“the Applicant”)

Tribunal Members: Ruth O’Hare, with delegated powers from the Chamber President

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) considers that there is good reason to reject the application received by it from the Applicant on 20 March 2025. The Tribunal therefore rejects the application under Rule (8)(1)(c) of the Rules.

Background

- 1 This is an application for an eviction order. The Applicant sought to proceed under both Rules 65 and 66 of the Rules, therefore the application was given two separate reference numbers as noted above.
- 2 The application was reviewed under Rule 5(2) of the Rules by a Legal Member of the Tribunal with delegated powers from the Chamber President. The Tribunal subsequently wrote to the Applicant on 12 April 2025 seeking further information under Rule 5(3) of the Rules in the following terms:-

“A Legal Member of the Tribunal with delegated powers of the President has considered your application.

As you have ticked both Rule 65 and Rule 66 on the form, two separate applications have been registered. If you only intended to make one application please confirm which rule should apply and which application is withdrawn.

You have also submitted the applications with the wrong documentation. You have submitted a notice to leave and stated that you intend to sell the property. This notice and ground only apply to PRTs which started after 1 December 2025.

- 1. Please provide a copy of the tenancy agreement.*
- 2. Please provide a copy of the section 11 notice with evidence that it was sent to the Council.*
- 3. For Rule 66 you must provide a copy of the AT5, a copy of the notice to quit and section 33 notice with evidence of service.*
- 4. For Rule 65 you need to provide a valid eviction ground, a copy of the notice to quit and AT6 with evidence of service. You also need to provide evidence to support the ground.*

You may wish to take legal advice before you respond.

Please respond within 14 days or your application may be rejected.”

- 3 The Tribunal has received no response from the Applicant as at the date of this decision.

Reasons for decision

- 4 Rule 8(1)(c) of the Rules allows an application to be rejected by the Chamber President if *‘they have good reason to believe that it would not be appropriate to accept the application’*.
- 5 In this case it is stated that the tenancy commenced on 9 October 2013, which would render it an assured tenancy as defined by section 12 of the Housing (Scotland) Act 1988. The statutory requirements for recovery of possession of an assured tenancy can be found in either section 18 of the 1988 Act where mandatory or discretionary grounds apply, or in section 33 where a short assured tenancy has been brought to an end. For either route, the landlord requires to serve the prescribed notices before making an application to the Tribunal, namely a Form AT6, or notice under section 33(1)(d) of the 1988 Act, and a notice to quit.
- 6 In support of these applications, the Applicant has submitted a notice to leave in the form prescribed by the Private Residential Tenancies (Prescribed Notices and Forms) (Scotland) Regulations 2017. A notice to leave applies only to private residential tenancies as defined by section 1 of the Private Housing (Tenancies) (Scotland) Act 2016. A tenancy that commenced prior to 1 December 2017 cannot be a private residential tenancy.
- 7 The Applicant has been alerted to this fundamental defect by the Tribunal. He has since failed to satisfy the Tribunal that the mandatory requirements for an application under either Rule 65 or Rule 66 are met. Given his lack of response to the Tribunal’s request for information dated 12 April 2025, I can reasonably assume that he is unable to do so.

- 8 I have therefore concluded that the Applicant's failure to produce the required notices constitutes good reason to reject the application. The Applicant would be advised to seek legal advice should he wish to apply again to the Tribunal to ensure his application is compliant with the statutory requirements for possession of an assured tenancy.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal 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.

R. O'Hare

Legal Member/Chair

30 May 2025

Date