

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/24/5728

Re: Property at 31 Clearburn Crescent, Edinburgh, EH16 5ER (“the Property”)

Parties:

Ms Evelyn Nicholson, 46/2 Minto Street, Edinburgh, EH9 2BR (“the Applicant”)

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

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) rejects the application received by it on 13 December 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 This is an application for an eviction order under Rule 109 of the Rules and section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The Applicant relied upon ground 4 as the ground for possession, stating her intention to live in the property. The Applicant’s representative, Nisbet Solicitors, submitted the application on behalf of the Applicant.
- 2 The application was considered by a Legal Member of the Tribunal with delegated powers from the Chamber President to determine whether all mandatory requirements for lodgement had been met. On 17 January 2025 the Tribunal emailed the Applicant’s representative in terms of Rule 5(3) of the Rules requesting further information. The Applicant’s representative responded by emails dated 31 January 2025 and 3 February 2025.
- 3 On 5 March 2025 the Tribunal wrote again to the Applicant’s representative under Rule 5(3) in the following terms:-

“A legal member of the Tribunal with delegated powers of the Chamber President has considered the application and has advised that the following information is required:

1. The landlord registration number provided does not produce any results on the landlord register. Please provide evidence of landlord registration.

2. You will be aware of the terms of ground 4 under the Private Housing (Tenancies) (Scotland) Act 2016. The Tribunal needs to see evidence of the intention of the applicant to move into the property, such as an affidavit.

3. You have provided unredacted medical information and a Will from a third party. Please be aware that if the application is accepted, these documents will be shared with the Respondents. Should you wish to provide redacted versions please submit these and ask for the unredacted documents to be withdrawn.

Please reply to this office with the necessary information by 19 March 2025. If we do not hear from you within this time, the President may decide to reject the application.”

- 4 The Tribunal received no response from the Applicant's representative. The Tribunal wrote to the Applicant's representative again by both email and first class post on 23 April 2025 noting the lack of response and requesting the information by 7 May 2025, failing which the application may be rejected. The Tribunal received an automatic email reply, advising that the solicitor dealing with the application had left the firm and that enquiries should be directed to another solicitor, whose email address was contained therein. The Tribunal proceeded to send a copy of the email, along with the previous request for information dated 5 March 2025, to the other solicitor.
- 5 The Tribunal has received no further response from the Applicant's representative as at the date of this decision.

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. In particular, the Applicant has failed to provide sufficient evidence to support the ground for possession, which is a mandatory requirement for an application under Rule 109 of the Rules. The Tribunal has requested this information from the Applicant's representative. The Tribunal has 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 via her representative, and it is now nearly six months since the application was lodged with the Tribunal. Accordingly the Legal Member has concluded that the failure to provide the information timeously 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

7 June 2025