



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

**Chamber Ref: FTS/HPC/EV/24/5564**

**Re: Property at 6 Wellmeadow Green, Newton Mearns, Glasgow, G77 6QY (“the Property”)**

**Parties:**

**Ms Catriona Cameron, 1 Ratho Street, Greenock, PA15 2BU (“the Applicant”)**

**Tribunal Member: 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”) determined that they had good reason to believe that it would not be appropriate to accept the application received by it on 5 December 2024. The Tribunal therefore rejects the application under Rule 8(1)(c) of the Rules.

**Background**

- 1 This is an application for an eviction order under Rule 66 of the Rules and section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Applicant sought possession of a short assured tenancy which had been brought to an end. The application was conjoined with an application for a payment order under Rule 70 of the Rules.
- 2 In terms of Rule 5(2) of the Rules a Legal Member with delegated powers from the Chamber President reviewed the application to assess whether it had been lodged in the required manner. Following said review the Tribunal wrote to the Applicant in the following terms:-

*“We acknowledge receipt of your email of 4 December 2024 bearing to include forms E and F which you say were originally submitted on 17 October 2024.*

*There is no trace of these forms being received by the tribunal on 17 October*

*The application for an eviction order this has been allocated reference FTS/HPC/EV/24/5564.*

*The application for a payment order this has been allocated reference FTS/HPC/CV/24/5565.*

*Your email of 4 December contains only the application forms in respect of an eviction action and a payment action. It contains no supporting documentation such as a tenancy agreement, relevant notices to quit/leave and a rent statement. It does not contain the relevant notice required to be given to the local authority in terms of the Homelessness etc. (Scotland) Act 2003.*

*Can you please provide all the relevant attachments to enable the tribunal to progress your applications?*

*Upon receipt of the above information, a final decision can then be taken on whether the applications are valid and whether they should be accepted and referred to the tribunal for full determination."*

- 3 On 15 January 2025 the Tribunal received an email from the Applicant's representative, Corbett and Shields, with a notice to quit and notice under section 33(1)(d) of the 1988 Act, rent statement, tenancy agreement, and copy letters from the Applicant's representative to the Respondent.
- 4 On 21 February 2025 the Tribunal wrote again to the Respondent in the following terms:-

*"Your further information 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:*

*FTS/HPC/EV/24/5564*

*The section 33 notice has not been completed properly. If this is the notice that was served, it is invalid and the application should be withdrawn. If a valid section 33 notice was served, please provide a copy.*

*The notice to quit does not include a date on which the Respondent must leave the property. If this is the notice to quit that was served, it is invalid and the application should be withdrawn. If a valid notice to quit was served, please provide a copy.*

*If valid notices were served and can be provided, please also provide the following:*

*Evidence of service of the notices.*

*A copy section 11 notice and evidence of service on the local authority.*

*A full legible copy of the tenancy agreement.*

*A copy of the Form AT5.*

*Please provide a copy of the tenancy agreement which is legible and complete. The amount stated in the application form does not match the outstanding amount on the rent statement. Please either amend the application form or the rent statement.*

*The rent statement shows an entry of £12,230 in February 2023. It is not clear why this is the case, but the rent statement must detail all arrears of rent throughout the tenancy.*

*Please reply to this office with the necessary information by 7 March 2025. If we do not hear from you within this time, the President may decide to reject the application.”*

- 5 On 24 February 2025 the Applicant’s representative emailed the Tribunal with a copy email from East Renfrewshire Council acknowledging receipt of the section 11 notice. On 25 and 27 February 2025 the Applicant’s representative emailed the Tribunal with a notice to quit and notice under section 33 of the 1988 Act, a rent statement, and a copy of the tenancy agreement.
- 6 On 2 April 2025 the Tribunal wrote again to the Applicant’s representative in the following terms:-

*“Your emails of 28 February are acknowledged and have been reviewed and considered by the legal member. There are still issues to be addressed which were set out in our previous request. You have not provided this evidence.*

*• Please provide detailed evidence of the method of service of the notice to quit and section 33 Notice upon the tenant and evidence of its receipt by him.*

*• Please provide a copy of the Form AT5.*

*• Please lodge a copy of the notice which is required to be given to the local authority under section 11(3) of the Homelessness etc. (Scotland) Act 2003 together with evidence of the method and date on which that was given to the local authority.”*

- 7 On 1 April 2025 the Tribunal received an email from the Applicant’s representative asking for an update on the progress of the application. The Tribunal responded by email dated 4 April 2025 highlighting the Tribunal’s request for information dated 2 April 2025. The Tribunal provided the Applicant’s representative with a copy of the request for information for ease of reference.
- 8 The Tribunal received no response from the Applicant’s representative to its request for information dated 2 April 2025. On 29 May 2025 the Tribunal wrote to the Applicant’s representative again in the following terms:-

*“We refer to previous correspondence regarding the above applications.*

*You wrote to us on 1 April 2025 requesting an update and confirmation that all outstanding information had been provided. We responded to you by email on 4 April 2025 to advise that a further request for information had been sent to you on 2 April 2025, with a response sought by 16 April 2025. We have not heard further from you.*

*For the avoidance of doubt the following information remains outstanding:-*

*1 Detailed evidence of the method of service of the notice to quit and section 33 notice upon the tenant and evidence of its receipt by him;*

*2 A copy of the Form AT5 given to the tenant prior to the creation of the short assured tenancy;*

*3 A copy of the section 11 notice together with proof of delivery, e.g. covering email or postal receipt.*

*4 Confirmation as to whether you are now seeking to increase the sum claimed in the payment application. If so, please provide an updated Form F that shows the amount now being sought.*

*We will give you one final opportunity to provide the required information. Please read the above carefully and ensure you respond to all of the numbered points. If you fail to provide a complete response it is likely that your application will be rejected by the Tribunal without further notice.”*

- 9 On 30 May 2025 the Tribunal received an email from the Applicant's representative with a postal receipt and tracking information, notice under section 33(1)(d) of the 1988 Act dated 3 April 2025, notice to quit dated 3 April 2025, and rent statement. The Applicant's representative explained that a Form AT5 was not required as *“the tenancy agreement refers to this, was advised by SAL AT5 was not required”*.

### **Reasons for decision**

- 10 The Legal Member carefully 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.”
- 11 The basis of the decision is that the Applicant has failed to provide all of the information requested by the Tribunal despite having been asked for this on several occasions. In terms of Rule 5(3) of the Rules, the Chamber President or another member of the Tribunal under the delegated powers of the Chamber President, may request further documents if it is determined that an application has not been lodged in the prescribed manner. The application in its current form does not meet the mandatory requirements for lodgement that apply to an application under Rule 66 of the Rules.

12 Rule 66 provides as follows:-

*“Where a landlord makes an application under section 33 (recovery of possession on termination of a short assured tenancy) of the 1988 Act, the application must—*

*(a) state—*

- (i) the name, address and registration number (if any) of the landlord;*
- (ii) the name, address and profession of any representative of the landlord;  
and*
- (iii) the name and address of the tenant;*

*(b) be accompanied by a copy of—*

- (i) the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the landlord can give;*
- (ii) the notice by landlord that the tenancy is a short assured tenancy;*
- (iii) the notice given to the tenant under section 33(1)(d) of the 1988 Act;*
- (iv) the notice to quit served by the landlord on the tenant;*
- (v) a copy of the notice by the landlord given to the local authority under section 11 of the Homelessness (Scotland) Act 2003 (if applicable), and*
- (vi) a copy of Form BB (notice to the occupier) under schedule 6 of the Conveyancing and Feudal Reform (Scotland) Act 1970 (if applicable),  
and*

*(c) be signed and dated by the landlord or a representative of the landlord.”*

- 13 The Applicant has failed to provide a copy of the notice given to the local authority under section 11 of the Homelessness (Scotland) Act 2003. The Applicant has failed to provide evidence that the statutory notices, both dated 22 May 2024, have been properly delivered to the tenant. Instead, the Applicant's representative has submitted a further set of notices, which post-date the application.
- 14 The Applicant has also failed to provide the notice by the landlord that the tenancy is a short assured tenancy. The Applicant's representative has stated that this was not required. That is incorrect. In terms of section 32 of the 1988 Act, a short assured tenancy can only be created in circumstances where the tenant has been given the Form AT5 notice that the tenancy is a short assured tenancy, prior to signing the tenancy agreement. It appears therefore that the application is not competent and cannot proceed under Rule 66.
- 15 The Applicant's representative has been asked on numerous occasions to provide the requested information. They have been advised that 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. She has failed to satisfy the Tribunal that the application is competent and can proceed to a tribunal for determination. Accordingly the Legal Member

has concluded that there is good reason to reject the application under Rule 8(1)(c).

### **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.

# Ruth O'Hare

2 July 2025

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Legal Member/Chair

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Date