



**DECISION AND STATEMENT OF REASONS OF JOSEPHINE BONNAR,
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 Procedure Rules")**

Case Reference: FTS/HPC/EV/25/0465

129B Murray Terrace, Smithton, Inverness ("the Property")

Stewart Coghill, 8 Barnview, Culloden, Inverness ("the Applicant")

1. The Applicant seeks an eviction order in terms of Rule 109 of the Procedure Rules and Section 51 of the Private Housing Tenancies (Scotland) Act 2016 ("the 2016 Act"). Various documents were submitted with the application.
2. The Tribunal issued a request for further information and documents in terms of Rule 5(3) of the Procedure Rules. The Applicant was directed to provide an amended application form to include all three tenants, a copy of the Notice to leave with evidence of service on the tenants, a copy of the section 11 notice and evidence in support of the eviction ground in the form of a rent statement. The Applicant responded. He stated that he had only ever dealt with the first named tenant and did not wish to add the others to the application. He provided a copy of a Notice to leave address to the first named tenant with a post office certificate of positing and track and trace report. He also provided a section 11 notice and a rent statement. A further request was issued, which stated that the application had to be made against all three tenants and the Notice had to be served on all three tenants. It was also noted that the Notice lodged appeared to be invalid as the date specified in part 4 is incorrect.
3. Although notified that failure to respond may lead to the application being rejected, the Applicant did not respond to the request or to a reminder issued by the Tribunal.

Decision

4. After consideration of the application the Legal Member considers 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.”

Reasons for decision

5. Rule 5 of the Procedure Rules states that an application “is held to have been made on the date that it is lodged if, on that date, it is lodged in the manner as set out in...” the relevant Rule. In terms of Rules 5(2) and (3), the Chamber President or a Member with delegated powers must assess whether the “mandatory requirements for lodgement have been met” and “may request further documents”.
6. The application was lodged in terms of Rule 109. This Rule requires an application to state the name and address of the tenant and the eviction ground which is relied upon. It must also be accompanied a copy of the notice to leave which has been given to the tenant and copy of the section 11 notice sent to the Local Authority. The Legal Member notes the following;-
 - (a) In terms of the 2016 Act and tenancy agreement lodged with the application, all three tenants named in the tenancy agreement are jointly the “tenant”. The application for eviction must be made against all three. Although directed to address this issue, the Applicant has failed to do so.
 - (b) The Applicant has lodged a notice to leave in relation to one of the three tenants. The application for an eviction order must be accompanied by a notice to leave which has been served on the tenant. As all three tenants are jointly the tenant, a valid notice in relation to all three is required. Although directed to address this issue, the Applicant has failed to do so.
 - (c) The Notice to leave lodged in relation to the first named tenant is invalid as the date specified in Part 4 is incorrect.
 - (d) A Section 11 notice has been submitted but no evidence that it was sent to the Local authority. In addition, it only refers to the first named tenant.
 - (e) The application appears to be based on rent arrears. However, the application form refers to ground 11 (breach of tenancy, a ground which cannot be used for rent arrears) and ground 12A which has been repealed.
7. The Applicant has failed to comply with Rules 5 and 109 of the Procedure Rules and the relevant provisions of the 2016 Act. In the circumstances, the Legal Member is satisfied that there is good reason to believe 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.

Josephine Bonnar

Josephine Bonnar, Legal Member
22 July 2025