



**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/PR/25/0650

16A Regent Street, Portobello ("the Property")

**Dean McVie, Nicola Ann Bennett, 135 Arthur View Crescent, Dalkeith ("the
Applicant")**

1. The Applicants lodged an application for a wrongful termination order in terms of Rule 110 of the Procedure Rules and Section 58 of the Private Housing Tenancies (Scotland) Act 2016 ("the 2016 Act").
2. The Tribunal issued a request for further information. The Tribunal noted that the Applicants had made the application against the wrong party – the letting agent rather than the Landlord. They were directed to remedy this. They were also asked to explain the way in which they were misled into vacating the property. In response, the Applicants stated that they had vacated the property on the ground that the Respondent intended to market it for sale within three months of them moving out. However, although they had moved out on 3 October 2024, the property was not placed on the market until 26 January 2025. The Applicants did not address the issue of the wrong Respondent.
3. Two further requests for information were issued by the Tribunal, with no response from the Applicants.

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 110 and Section 58 of the 2016 Act. Section 58 applies where a tenant was “misled into ceasing to occupy the let property “by the landlord. Based on the information and documentation lodged, the Applicants were served with a Notice to leave on ground 1 of Schedule 3. Ground 1 states that the Tribunal can grant an eviction order where the landlord intends to sell the let property for market value or at least put it up for sale within three months of the tenant ceasing to occupy it. The Applicants have stated that the property was marketed for sale but this occurred more than three months after they moved out. However, ground 1 does not stipulate that the property must be marketed within three months, only that the landlord **intends** to sell or at least market the property for sale within 3 months. Based on the information provided, the Applicants do not have grounds to seek a wrongful termination order in terms of Section 58 of the 2016 Act. Furthermore, the Applicant has failed to make the application against the correct Respondent and has failed to address this issue when directed to do so by the Tribunal.
7. 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
20 July 2025