

**Decision with Statement of Reasons of H Forbes, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules")**

**Chamber Ref: FTS/HPC/EV/25/0333**

**Re: 3 Kings Court, Inverbervie, Montrose, DD10 0TN ("the Property")**

**Parties:**

**And Orr Homes Ltd. ("the Applicant")**

**Tribunal Member:**

**H Forbes (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be rejected on the basis that the Tribunal has good reason to believe it would not be appropriate to accept the application in terms of Rule 8(1)(c) of the Procedural Rules.**

**Background**

1. The application was received by the Tribunal under Rule 109 on 27<sup>th</sup> January 2025 with associated documents. The Applicant sought an eviction order under ground 11.
2. Several requests for further information were made by the Tribunal to the Applicant, including a request for evidence of service of the notice to leave upon the Respondent. The Applicant lodged an email to the Respondent serving the notice to leave, which email was sent on 18<sup>th</sup> December 2024. The notice to leave was dated 16<sup>th</sup> December 2024, and the effective date at Part 4 was 17<sup>th</sup> January 2025.
3. By email dated 10<sup>th</sup> June 2025, the Tribunal stated: *'There may be an issue over the validity of the notice to leave. Although it is dated 16th December, it was not emailed until 18th December. The period of notice is 28 days plus 48 hours for delivery by post or email, and the date to be inserted at part 4 is the day after the 28 days plus 48 hours. You state that you also sent the notice by post. Was this sent by recorded delivery on 16th December? If so, please provide the posting slip and tracking report. If not, please consider withdrawing the application as it is unlikely to be accepted if insufficient notice was given to the Respondent.'*

4. There was no response from the Applicant, and no response to a further opportunity to provide the information, at which time it was stated that failure to provide the information may result in rejection of the application.

## **Decision**

5. The Tribunal considered the application in terms of Rule 8 of the Rules. That Rule provides:-

*"Rejection of application*

*8.-(1) The Chamber President or another member of the First-tier Tribunal under the delegated powers of the Chamber President, must reject an application if-*

*(a) they consider that the application is frivolous or vexatious;·*

*(c) they have good reason to believe that it would not be appropriate to accept the application;*

*(2) Where the Chamber President, or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, makes a decision under paragraph (1) to reject an application the First-tier Tribunal must notify the applicant and the notification must state the reason for the decision."*

6. On consideration of the above test, the Tribunal considers that, in terms of Rule 8(c), there is good reason to believe it would not be appropriate to accept the application.

## **Reasons for Decision**

7. In terms of section 62(1)(b) of the Private Housing (Tenancies) (Scotland) Act 2016, a notice to leave is a notice which specifies the day on which the landlord expects to become entitled to make an application for an eviction order to the Tribunal. In this case, the notice to leave does not reflect the correct date on which the landlord would be entitled to make an application, given that the notice was served by email on 18<sup>th</sup> December 2024. The notice period is 28 days plus 48 hours for service by email, and the correct date to be inserted at part 4 is the day after the 28 days plus 48 hours. The notice to leave is invalid and an eviction order could not be granted by the Tribunal based on an invalid notice to leave.
8. There is good reason to believe it would not be appropriate to accept the application. The application is rejected.

## **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.**

# Helen Forbes

**Legal Member/Chair**

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**26<sup>th</sup> August 2025**  
**Date**