

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**DECISION AND STATEMENT OF REASONS OF PETRA HENNIG MCFATRIDGE 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 Procedural Rules")

in connection with

Case reference FTS/HPC/EV/25/2876

**Mr David Hindle (Applicant)**

**Homefinders Inverclyde Ltd (Applicant's Representative)**

**Flat 1/2 13 Glen Avenue, Port Glasgow, PA14 5AA (House)**

1. The application dated 2.7.25 was received by the First-tier Tribunal, Housing and Property Chamber (FTT) on 3.7.25. It was lodged under Rule 109 of the Procedural Rules and S 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (the Act). Included with the application at that point was only the application form, although there appears to be an earlier email sent by the Applicant's representative on 2.7.25 including other documents, which, because it was sent without an application form, was not reunited with the application email.
2. On 24.7.25 the FTT wrote to the Applicant's representative in the following terms: Thank you for your recent application which has been reviewed by a Legal Member of the Tribunal with delegated powers of the President. Please provide the following further information : None of the supporting documents referred to in the application have been lodged. Please provide :

1. A copy of the tenancy agreement. 2. A copy of the section 11 notice and proof of delivery. 3. A copy of the notice to leave and proof of delivery by a competent means. 4. Evidence supporting the ground for eviction such as a statement of rent arrears. 5. Evidence of compliance with the pre-action requirements. 6. Please provide evidence of landlord registration. 7. In the application you state that the tenancy commenced after 1 December 2017 which means it must be a private residential tenancy in terms of the Private Housing (Tenancies)(Scotland) Act 2016. In the application you state that the ground for eviction is ground 8 – at least 3 months rent is in arrears. That is a ground for eviction under the Housing (Scotland) Act 1988 which was ground repealed in October 2022. You may wish to rely upon ground 12 under the 2016 Act. Please lodge an amended application which refers to the ground for eviction stated in the notice to leave.
3. The Applicant's representative submitted an amended application based on ground 12 and provided a copy of the tenancy agreement, rent statement, S 11 notice and email sending same to the local authority on 23.1.25, two letters to the tenant regarding the arrears (one dated 25.10.24 and one undated), Notice to Leave and email sending same on 1.11.24 with the date in part 4 of the Notice to Leave stated as 2.12.24.

## DECISION

4. I considered the application in terms of Rule 8 of the Procedural 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;*

*(b) the dispute to which the application relates has been resolved;*

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

*(d) they consider that the application is being made for a purpose other than a purpose specified in the application; or*

*(e) the applicant has previously made an identical or substantially similar application and in the opinion of the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, there has been no significant change in any material considerations since the identical or*

*substantially similar application was determined.*

*(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."*

5. After consideration of the application, the attachments and correspondence from the Applicant, I consider that the application should be rejected in terms of Rule 8 (c) of the Rules of Procedure on the basis as the FTT has good reason to believe that it would not be appropriate to accept the application.

**Applicable Legislation:**

**Private Housing (Tenancies) (Scotland) Act 2016 :**

**52Applications for eviction orders and consideration of them**

(1)In a case where two or more persons jointly are the landlord under a tenancy, an application for an eviction order may be made by any one of those persons.

(2)The Tribunal is not to entertain an application for an eviction order if it is made in breach of—

(a)subsection (3), or

(b)any of sections 54 to 56 (but see subsection (4)).

(3)An application for an eviction order against a tenant must be accompanied by a copy of a notice to leave which has been given to the tenant.

(4)Despite subsection (2)(b), the Tribunal may entertain an application made in breach of section 54 if the Tribunal considers that it is reasonable to do so.

(5)The Tribunal may not consider whether an eviction ground applies unless it is a ground which—

(a)is stated in the notice to leave accompanying the landlord's application in accordance with subsection (3), or

(b)has been included with the Tribunal's permission in the landlord's application as a stated basis on which an eviction order is sought.

**54Restriction on applying during the notice period**

(1) A landlord may not make an application to the First-tier Tribunal for an eviction order against a tenant using a copy of a notice to leave until the expiry of the relevant period in relation to that notice.

(2) The relevant period in relation to a notice to leave—

(a) begins on the day the tenant receives the notice to leave from the landlord, and

(b) expires on the day falling—

(i) 28 days after it begins if subsection (3) applies,

(ii) 84 days after it begins if subsection (3) does not apply.

(3) This subsection applies if—

(a) on the day the tenant receives the notice to leave, the tenant has been entitled to occupy the let property for not more than six months, or

(b) the only eviction ground, or grounds, stated in the notice to leave is, or are, one or more of the following—

(i) that the tenant is not occupying the let property as the tenant's home,

(ii) that the tenant has failed to comply with an obligation under the tenancy,

(iii) that the tenant has been in rent arrears for three or more consecutive months,

(iv) that the tenant has a relevant conviction,

(v) that the tenant has engaged in relevant anti-social behaviour,

(vi) that the tenant associates in the let property with a person who has a relevant conviction or has engaged in relevant anti-social behaviour.

(4) The reference in subsection (1) to using a copy of a notice to leave in making an application means using it to satisfy the requirement under section 52(3).

#### **55 Restriction on applying 6 months after the notice period expires**

(1) A landlord may not make an application to the First-tier Tribunal for an eviction order against a tenant using a copy of a notice to leave more than six months after the day on which the relevant period in relation to that notice expired.

(2) In subsection (1), “the relevant period” has the meaning given in section 54(2).

(3) The reference in subsection (1) to using a copy of a notice to leave in making an application means using it to satisfy the requirement under section 52(3).

#### **62 Meaning of notice to leave and stated eviction ground**

(1) References in this Part to a notice to leave are to a notice which—

(a)is in writing,

(b)specifies the day on which the landlord under the tenancy in question expects to become entitled to make an application for an eviction order to the First-tier Tribunal,

(c)states the eviction ground, or grounds, on the basis of which the landlord proposes to seek an eviction order in the event that the tenant does not vacate the let property before the end of the day specified in accordance with paragraph (b), and

(d)fulfils any other requirements prescribed by the Scottish Ministers in regulations.

(2)In a case where two or more persons jointly are the landlord under a tenancy, references in this Part to the tenant receiving a notice to leave from the landlord are to the tenant receiving one from any of those persons.

(3)References in this Part to the eviction ground, or grounds, stated in a notice to leave are to the ground, or grounds, stated in it in accordance with subsection (1)(c).

(4)The day to be specified in accordance with subsection (1)(b) is the day falling after the day on which the notice period defined in section 54(2) will expire.

(5)For the purpose of subsection (4), it is to be assumed that the tenant will receive the notice to leave 48 hours after it is sent.

## **REASONS FOR DECISION**

1. In terms of S 52 (3) of the Act and rule 109 (b) (ii) of the Rules of Procedure an application must be accompanied by a copy of the Notice to Leave. S 55 states that for the purpose of fulfilling the requirement in S 52 (3) a Notice to Leave used cannot be used more than six months after the day on which the relevant period as set out in S 54 (2) expired.
2. In this case the Notice to Leave was dated 1.11.24 with a notice period in terms of S 54 (2) (b) (i) of 28 days. The Notice to Leave was emailed to the tenant on 1.11.24 and in terms of S 62 (5) was thus deemed to have been received 48 hours later and thus on 3.11.24. In terms of S 54 (2)(a) and (b) the 28 day notice period thus expired on 1.12.24. In terms of S 55, the 6 months period during which the Notice to Leave could be used as the supporting evidence for an application under S 51 thus ended on 2.6.25. The application was not made until 3.7.25 when the FTT received the application. The application was thus made later than 6 months after the day on

which the relevant period in relation to the notice had expired and the Notice to Leave could then no longer be used as a Notice to Leave to fulfill the requirement of S 52 (3).

3. It would not be appropriate for the Tribunal to accept an application based on a Notice to Leave which had expired in terms of S 55, which thus does not meet the lodging requirement of rule 109 (b) (ii) of the Rules of Procedure and the requirement for a valid application in terms of S 52 (3) of the Act.
4. The application is rejected.

### **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.**

Petra Hennig McFatridge  
Legal Member  
14 August 2025