

Housing and Property Chamber
First-tier Tribunal for Scotland



**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/CV/25/3463

Parties

Mr Ian Robert Cunningham (Applicant)

78 Stenhouse Crescent, Edinburgh, EH11 3HU (House)

A BACKGROUND

1. On 13 August 2025 the Applicant lodged with the First –tier Tribunal for Scotland, Housing and Property Chamber (the FTT) an application under rule 70. There were no documents lodged in support of the application. Part 5 c was not completed on the application and the reason for the application given as :” I am wanting the property vacated as I wish to sell the property as I am in financial debt. “
2. The application document and correspondence with the FTT are referred to for their terms and held to be incorporated herein.

B DECISION

1. 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."

2. 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 Tribunal has good reason to believe that it would not be appropriate to accept the application.

C RELEVANT LEGISLATION

FTT Procedural Rules: Application for civil proceedings in relation to an assured tenancy under the 1988 Act

70. Where a person makes any other application to the First-tier Tribunal by virtue of section 16 (First-tier Tribunal's jurisdiction in relation regulated and assured tenancies etc.) of the 2014 Act, the application must—

(a)state—

(i)the name and address of the person;

(ii)the name and address of any other party; and

(iii)the reason for making the application;

(b)be accompanied by—

(i)evidence to support the application; and

(ii)a copy of any relevant document; and

(c)be signed and dated by the person.

D REASONS FOR REJECTION

1. The application was made under rule 70 of the Rules of Procedure. This relates to civil applications and not to applications for an order of possession under the Housing (Scotland) Act 1988. Thus if the Applicant wishes to evict the tenant, this is the wrong rule. For the avoidance of doubt, this decision does not prevent the Applicant from lodging a further application under the correct rule and providing the necessary documentary evidence in future. If he wishes the property to be vacated then he would require to follow the correct eviction process and apply to the Tribunal under the relevant rule with the necessary documentation required for the relevant process.
2. Meantime, any application under rule 70 would require to be accompanied by evidence to support the application. No evidence to support the application was provided. The application thus does not meet the lodging criteria for rule 70.
3. It would not be appropriate for the Tribunal to accept an application that does not meet the criteria for lodging of an application of that nature.

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
29 August 2025