



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 8(1)(a) of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/25/1411

Re: Property at 1/2 29 Wellmeadow St, Paisley, PA1 2EH (“the Property”)

Parties:

Mr Thomas McDonald, 12 Alexander Avenue, Glasgow, Scotland, G76 0JG (“the Applicant”)

Tribunal Members: Ruth O’Hare, Legal Member with delegated powers from the Chamber President

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application received by it on 3 April 2025 is frivolous and should therefore be rejected under Rule 8(1)(a) of the Rules.

Background

- 1 This is an application for an eviction order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of the Rules.
- 2 In terms of Rule 5(2) of the Rules a Legal Member with delegated powers from the Chamber President reviewed the application to assess whether it had been lodged in the required manner. As part of the review process, the Tribunal wrote to the Applicant on 13 August 2025 in the following terms:-

“The Notice to leave was sent on 1 August 2024 and the date specified in Part 4 is 1 September 2024. In terms of the 2016 Act, an application to the Tribunal must be lodged within 6 months of the date in Part 4. The application was not lodged until 3 April 2025. Please clarify the basis upon which the application can be accepted or withdraw it and re-submit it once a new notice has been served.”

- 3 On 13 August 2025 the Applicant responded to advise that he had lodged the application late as he had been making efforts to assist the Respondent. He considered it would be an injustice if his application was rejected.

Reasons for decision

- 4 Rule 8(1)(a) of the Rules allows an application to be rejected by the Chamber President if “they consider that an application is vexatious or frivolous”. “Frivolous” in the context of legal proceedings is defined by Lord Justice Bingham in R-v- North West Suffolk (Mildenhall) Magistrates Court (1998) Env.L.R.9. At page 16 he states:- “What the expression means in this context is, in my view, that the court considers the application to be futile , misconceived, hopeless or academic”.
- 5 I consider that this application is frivolous or vexatious and has no reasonable prospect of success in its current form. Section 55 of the 2016 Act provides that *“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 relative period in relation to that notice expired”*. The relevant period is calculated in accordance with the provisions of sections 54 and 62 of the 2016 Act. In this case, the date on which the relative period expired as stated in the notice to leave was 1 September 2024. The application was received by the Tribunal on 3 April 2025. The Applicant therefore made the application more than six months after the day on which the relative period expired.
- 6 There is no discretion afforded to the Tribunal under section 55 whereby an application received beyond the six month period can be entertained. The Applicant has failed to identify any other legal basis upon which the Tribunal can competently consider the application. The application is therefore futile and has no prospects of success. Accordingly I can see no option other than to reject the application under Rule 8(1)(a).

NOTE: What you should do now.

If you accept this decision there is no need to reply. If you disagree with this decision you should note the following: An Applicant aggrieved by this 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 seek permission to appeal within 30 days of the date the decision was sent them. Information about the appeal procedure can be forwarded on request.

R.O'Hare

1 September 2025