



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

Chamber Ref: FTS/HPC/EV/25/1496

Re: Property at 70 Whin Street, Clydebank, G81 3JE (“the Property”)

Parties:

Miss Deborah Quinn, 80 Mary Fisher Crescent, Dumbarton, G82 1BF (“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 there is good reason to believe that it would not be appropriate to accept the application received by it on 8 April 2025. The Tribunal therefore rejects the application under Rule 8(1)(c) of the Rules.

Background

- 1 This is an application for an eviction order under rule 109 of the Rules and section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”).
- 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. Following said review the Tribunal wrote to the Applicant on 29 April 2025 in the following terms:-

“Your application has been reviewed by a Legal Member of the Tribunal with delegated powers of the President. Please provide the following further information:

- *The tenancy agreement that has been submitted is a private residential tenancy (PRT) agreement under the Private Housing (Tenancies)(Scotland) Act 2016. The section 33 notice and Form AT5 submitted relate to tenancies under*

the Housing (Scotland) Act 1988 and are not valid in relation to the tenancy agreement.

- *The application states at part 1 that it proceeds under rule 65. This rule does not apply for PRTs. If you seek to proceed with the application, a fresh application specifying rule 109 will require to be submitted.*

- *The notice to leave (NTL) produced specifies ground 1 – landlord intends to sell. The NTL is dated 3 February 2025 and specifies 3 April 2025 as the earliest date that an application can be raised. The NTL appears to be invalid as the incorrect notice period has been provided. Please have regard to the relevant provisions in the Private Housing (Tenancies) (Scotland) Act 2016 (and particularly sections 54(2), 62(4) and 62(5) of that Act) and explain why the NTL meets the requirements of those sections with particular regard to both the required period of notice to be given, the assumption that tenant will receive the notice to leave 48 hours after it is sent and the effective date to be inserted into a NTL and whether it should be regarded as valid. The date to be inserted as the date upon which proceedings may commence requires to be the day falling after the day on which the notice period expires.*

- *No proof of service of the NTL has been produced.*

- *The title deeds and lease show that the property has a joint owner, JOHN KENNEDY THOMSON. In the event that the application is proceeding please confirm whether Mr Thomson is to be added as a joint applicant or provide written consent from him to you acting on his behalf in relation to the application.*

- *The property does not appear on the landlord register. Please confirm the position.*

In the event that you are not proceeding with the application please confirm if you seek to withdraw the application.

Please reply to this office with the necessary information by 13 May 2025. If we do not hear from you within this time, the President may decide to reject the application.”

- 3 On 29 April 2025 the Applicant emailed the Tribunal apologising for not following the correct procedure and explained that the tenant had advised that she would be leaving the property in September 2023 which had not transpired. The tenancy was no longer financially viable due to significant tax increases and lower rental income. The Applicant provided an amended application form and a notice to leave.
- 4 On 5 June 2025 the Tribunal wrote to the Applicant again by email in the following terms:-

“You have produced a new Notice to Leave (“NTL”) dated 3 February 2025 which indicates that an application would not be submitted until after 3 May

2025. Please confirm that you served this NTL on the tenant and provide evidence that this was the NTL served. This NTL cannot support the present application because it did not expire until after the application had been made. Please confirm that you wish to withdraw the application which proceeds under case reference FTS/HPC/EV/25/1496 and we can register your amended application as a new application.

We need to see a copy of the section 11 notice served on the local authority, together with evidence of service.

You need to produce evidence to support the ground of eviction, such as a home report or letter of engagement from a solicitor or estate agent.

Please reply to this office with the necessary information by 19 June 2025. If we do not hear from you within this time, the President may decide to reject the application.”

- 5 On 5 June 2025 the Tribunal received an email from the Applicant. She expressed disappointment with the length of time it had taken for the Tribunal to provide a response. She confirmed that she would approve a new application if the existing application was not fit for purpose. She provided an email to the tenant with the notice to leave and an email to the local authority. She expressed concerns with the timeline for the application, explaining that she was not yet in a position to obtain a home report due to the time sensitive nature of said reports. She explained that the situation was becoming increasingly stressful for both herself and the tenant.
- 6 On 9 July 2025 the Tribunal wrote to the Applicant by email in the following terms:-

“We wrote to you on 5 June 2025 seeking further information. In particular we asked you for proof of service of the notice to leave dated 3 February 2025. You have provided a copy of an email sent but the copy email is not dated and we are therefore unable to calculate the notice period.

We asked you to withdraw the current application and make a new application if you are relying on the new notice to leave. You have told us you wish to make a new application but you have not provided this.

We asked you for the section 11 notice and proof of service on the local authority and you have failed to provide this. Your email has an undated copy of an email to the local authority but we do not have the attachment.

You have told us why you are unable to provide a home report but you have told us you intend to sell the property. If the application proceeds to a case management discussion the tribunal may ask you to provide evidence of your intention to sell the property.

In the meantime please provide the section 11 notice and proof of service of the notice to leave and a new application within 14 days.

Please reply to this office with the necessary information by 23 July 2025. If we do not hear from you within this time, the President may decide to reject the application.”

- 7 On 28 July 2025 the Tribunal received an email from the Applicant advising that she had just returned from holiday and required further time to digest the Tribunal's request for information.
- 8 The Tribunal received no further emails from the Applicant. On 20 August 2025 the Tribunal wrote again to the Applicant by email noting her lack of response and asking for a reply to the Tribunal's email of 9 July 2025 within fourteen days.
- 9 No further response was received from the Applicant.

Reasons for decision

- 10 The Legal Member considered the application in terms of the Rules and determined 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.”*
- 11 The basis of the decision is that the Applicant has failed to provide the information requested by the Tribunal. In terms of Rule 5(3) of the Rules, the Chamber President or another member of the Tribunal under the delegated powers of the Chamber President, may request further documents if it is determined that an application has not been lodged in the prescribed manner. The application in its current form does not meet the mandatory requirements for lodgement that apply to an application under Rule 109 of the Rules. The Applicant has been asked to withdraw the application and submit a fresh application based on the new notice to leave. She has been warned that a failure to provide a response to the Tribunal may result in the application being rejected. The Applicant has therefore been given the opportunity to address the outstanding matters. Accordingly the Legal Member has concluded that the Applicant's failure to provide the information constitutes good reason to reject the application under Rule 8(1)(c).

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.

Ruth O'Hare

30 September 2025

Legal Member/Chair

Date