



Decision and statement of Reasons of the First Tier Tribunal (Housing and Property Chamber)

Under Rule 8 of the First Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ‘the Rules’.

In respect of application by Mr Samuel Wood in terms of Rule 65 of the Rules.

Case reference FTS/HPC/EV/1933

At Glasgow on the 1 October 2025, Lesley Anne Ward, legal member of the First –Tier Tribunal ‘the Tribunal’ with delegated powers of the Chamber President, rejected the above application in terms of Rule 8(1)(a) and (c) of the Rules.

1. This is an application by Mr Samuel wood, the joint owner of the property at 71 Keith Drive Glenrothes Fife KY6 2HY for eviction in terms of rule 65 of the Rules.
2. The in-house convenor reviewed the application and a request for further information was sent on 6 June 2025 as follows:
 - (1) Please provide a copy of the tenancy agreement.
 - (2) The application indicates that the tenancy was a short assured tenancy under the Housing (Scotland) Act 1988. You have provided a copy of 3 notices. One is a notice to leave. This is the form of notice used to terminate tenancies created after 1 December 2017 and would not be appropriate to terminate a short assured tenancy. You have also provided a copy AT6 in which you state that the ground for eviction is that you wish to sell the property. That is not a ground for eviction under the 1988 Act. You have also provided a notice to quit. This should be accompanied by a notice served under section 33 of the 1988 Act. Was a section 33 notice served ? If so, please provide a copy.
 - (3) Please clarify the method of service of the relevant notice. If sent by post, this requires to have been sent by recorded delivery. Please provide the royal mail proof of delivery.

- (4) Please provide a copy of the section 11 notice and evidence of it having been sent to the local authority such as the covering email. Please note that once the further information requested has been provided further queries may arise.
3. The applicant responded on 2 July 2025 by stating that he was unable to provide a copy of the tenancy agreement.
4. The tribunal sent a further request for information on 30 July 2025 as follows:
 You have stated that you cannot provide the tenancy agreement and that you want to proceed on the basis of the Notice to Quit and At6
1. In the application you specified Rule 66 – termination of a short assured tenancy. You can only proceed on this basis if you can provide the following
- (a) A copy of the AT5 notice given to the tenant at the start of the tenancy.
 - (b) In the absence of a copy of the tenancy agreement, evidence of the start date and agreed initial term of the tenancy.
 - (c) A valid notice to quit and section 33 notice with evidence of service of the notices. You have not provided these documents and information.
2. If you wish you can amend the application to Rule 65. If so you will require to provide the following
- (a) The start date of the tenancy. There are emails from you in the documents lodged which suggest that this was the 12 December 2012. Where did this information from?
 - (b) An amended application form which specifies a valid ground for possession in terms of the 1988 Act. It is not a valid ground that the landlord intends to sell.
 - (c) A valid Notice to quit with evidence of service. Please note that, if the tenancy started on 12/12/12 the Notice does not appear to be valid. This is because there is a presumption that the initial term was 1 year, if there is no evidence to the contrary. The Notice to Quit must specify an ish or end date of the tenancy.
 - (d) A valid AT6 in relation to a relevant ground with evidence of service.
 - (e) Evidence to support the eviction ground. These matters require to be addressed or the application cannot be accepted. You may wish to take legal advice before you respond.
5. The applicant requested an extension of time to respond to this request. A substantive response was received on 10 September 2025. The applicant stated that he had a meeting with the tenant, they have signed a new private residential tenancy agreement and he has served a notice to leave giving 12 weeks notice.
6. 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”.

7. I consider that this application is hopeless and misconceived and has no reasonable prospect of success. The applicant has failed to respond to the tribunal's request for information. The applicant now appears to have served new notices and rule 65 is no longer applicable if a private residential tenancy has been constituted and the applicant is seeking to rely on a notice to leave. Rule 109 is therefore applicable. That notice has not yet expired so even if this was a rule 109 application, it is premature.

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.

Lesley Anne Ward

Legal Member