



**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/25/3488

Parties

Vincent Archibald (Applicant)

14 Denholm Crescent, East Kilbride, G75 0HS (House)

1. On 13.8.2025 the First –tier Tribunal for Scotland, Housing and Property Chamber (the FTT) received an application for an eviction order. The application dated 12.8.2025 referred to Rules 109 of the Procedure Rules but also stated in the body of the text it was made under rule 65 and ground 8A of the Housing (Scotland) Act 1988 and rules 77 and 79 and case 1 of the Rent (Scotland) Act 1984. Attached were documents described as an AT6 form and the Applicant stated the tenancy agreement would be available to the tenants and he had sent a notice to Quit to the Tribunal on 8.7.25. This was not provided with the application. In the paper apart the Applicant stated he also enclosed an AT11 form. The Applicant further included a rent statement, a letter to one of the tenants dated 11.8.2025 and a S 11 notice.
2. The AT6 form submitted was only addressed to one of two joint tenants. It was dated 11.8.2025 and stated proceedings would not be raised until 12.8.2025, the date after the date on the notice. It stated as the grounds “rule 65 section

18 Ground 8A At least 6 months' rent is in arrears and Rules 77 and 79 Case 1 the tenant has not paid rent and has broken some other term of the tenancy due to excessive damage to property". The letter to the tenant document dated 11.8.2025 again was only sent to one of the Respondents and referred to excessive damage, which was not further described and rent arrears of £6,615. It was accompanied by a standard pre action requirement letter dated 11.8.2025, which referred to "this could result in me giving you notice that I have already served on the 6/7/25". It is not clear what notice this referred to. The Applicant submitted a recorded delivery receipt for a letter sent on 12.8.2025 but it is not clear which document this relates to.

3. The S 11 notice refers to a start of the tenancy on 10.8.2023 with two joint tenants.
4. There were no documents confirming the S 11 notice having been sent to or received by the local authority or the other documents having been served.
5. The property appears not to be on the landlord register.
6. The FTT wrote to the Applicant on 1.9.2025 in the following terms: Your application form indicates you are seeking an eviction order in respect of a private residential tenancy in terms the rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 You then indicate in section 5 of the form that you are seeking eviction under the rule 65 which relates to assured tenancies under the Housing (Scotland) Act 1988 and also under rules 77 and 79 which applies to tenancies under the Rent (Scotland) Act 1984 Only one of these possible routes can be open to you. Please provide a copy of the tenancy agreement which you issued to the parties. The tenancy will either be a private residential tenancy under the 2016 Act, or an assured tenancy under the 1988 Act or a regulated tenancy under the 1984 Act, depending on when the tenancy started. The appropriate notices to be served depend upon the type of tenancy The notices which you have submitted appear to be a form AT6 which applies only in an assured tenancy. in this regard you appear to have failed to properly complete the form AT6. You have not set out within that form any appropriate ground for eviction contained within schedule 5 of the Housing (Scotland) Act 1988. The notice also appears to be dated 11 August 2025 and indicates you will raise proceedings after 12 August 2024. That does not give any period of notice at all to the tenant given

that you did not post it until 12 August 2025. You also do not appear to have served any notice upon the joint tenant (name provided on document). Your application as it presently stands appears to be utterly incompetent and will fall to be rejected. Please explain why you believe this application should be progressed given the lack of a tenancy agreement and the lack of a valid notice being given to the tenants. Further queries may arise upon receipt of your responses. The tribunal would strongly suggest that you seek independent legal advice on this application, the matters contained in this letter and any further action which you wish to take. Upon receipt of the above information, a final decision can then be taken on whether the application is valid and whether it should be accepted and referred to the tribunal for full determination. Please respond to this letter within the next two weeks. If you fail to respond to this letter, then the tribunal may reject your application. You should be aware that the Tribunal has the power to reject applications on grounds set out in rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017

7. However, no further reply has been received since then.
8. The file documents are referred to for their terms and held to be incorporated herein.

DECISION

9. 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."

10. 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.

Relevant Legislation

109. Where a landlord makes an application under section 51(1) (for an eviction order) of the 2016 Act, the application must—

(a) state—

(i) the name, address and registration number (if any) of the landlord;

(ii) the name, address and profession of any representative of the landlord;

(iii) the name and address of the tenant [\[F65\]](#)(if known); and

(iv) the ground or grounds for eviction;

(b) be accompanied by—

(i) evidence showing that the eviction ground or grounds has been met;

(ii) a copy of the notice to leave given to the tenant as required under section 52(3) of the 2016 Act; and

(iii) a copy of the notice given to the local authority as required under section 56(1) of the 2016 Act; and

[\[F66\]](#)(iv) a copy of Form BB (notice to the occupier) under schedule 6 of the Conveyancing and Feudal Reform (Scotland) Act 1970 (if applicable), and]

(c) be signed and dated by the landlord or a representative of the landlord.

REASONS FOR DECISION

11. The application did not meet the lodging requirements.
12. The FTT asked repeatedly for further information. No reply was received.
13. The information in the S 11 notice discloses as the start date August 2023 and thus the tenancy would be a Private Residential Tenancy in terms of the Private Housing (Tenancies) (Scotland) Act 2016. This is further supported by the Applicant ticking the box on page 1 of the application indicating the tenancy started on or after 1 December 2017. Rule 109 requires provision of the relevant Notice to Leave document. The application does not provide the documents required for a valid application under rule 109 of the Procedural Rules because it did not provide a Notice to Leave to the tenants. The application did not refer to any grounds of schedule 3 of the said legislation. It is thus not a valid application under rule 109.
14. The ground stated in relation to the Housing (Scotland) Act 1988 is ground 8A. This ground is no longer in force. It also appears that the tenancy is not a tenancy under the Housing (Scotland) Act 1988 as it was entered into after 1 December 2017. The AT6 form in any event does not give the required notice period and no evidence of service on both tenants was provided. No tenancy agreement was provided. The application is thus not a valid application under rule 65.
15. The reference to the Rent (Scotland) Act 1984 equally does not apply to Private Residential Tenancy. In any event, the application does not contain the relevant documents for an application under either rule 77 or 79 as no tenancy agreement and no valid Notice to Quit were provided.
16. The FTT had written to the Applicant and advised him of the documents and information, which would be required to consider the application further.
17. As the Applicant has disengaged from the process and not replied to the request from the FTT for further information. It would not be appropriate to accept an

application which clearly is no longer insisted upon.

18. The application as it was made did not meet the lodging criteria of any rules mentioned in the application for the reasons set out above. It would not be appropriate for the FTT to accept an incomplete and invalid application.

19. The application is therefore 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
16 October 2025