



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/25/2594

Re: Property at 43 Polbeth Crescent, Polbeth, EH55 8TX (“the Property”)

Parties:

Jema Investments Plc Limited, 217 Gorgie Road, Edinburgh, EH11 1TU (“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 17 June 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 16 July 2025 requesting further information under rule 5(3) of the Rules in the following terms:-

“Before a decision can be made, we need you to provide us with the following:

- 1. The title to the property is in the name of Jema Investments PLD Limited, as is the Application. However, the tenancy agreement shows the landlord as*

Martin Higgins. Please provide an explanation as to why the landlord is different from the owner and the Applicant.

2. Please amend your application form in relation to section 5. Section 5 must contain the Ground of eviction you are using, and some detail as to how the ground is established. Please check the wording of Ground 11, it does not include any breach in relation to non payment of rent. Please also note that you have raised an eviction application. If you wish to seek payment of any sum from the Respondent you will need to raise a separate application using Form F.

3. Please provide evidence of compliance with the pre action protocol.

4. Please provide a rent statement with columns showing date rent due date rent paid, amount due, amount paid and a running balance of arrears. The Tribunal must be able to easily see the sum of arrears at any given date.

Please reply to this office with the necessary information by 30 July 2025. If we do not hear from you within this time, the President may decide to reject the application.”

- 3 On 16 July 2025 the Applicant emailed the Tribunal requesting further clarification on the request for information in terms of what was required. On 22 July 2025 the Tribunal emailed the Applicant in the following terms:-

“1. Please answer each of the numbered points in the Tribunal’s request dated 16 July 2025.

2. Although you have provided a list of payments made and not made by the tenant, you require to submit a “rent statement” in the format required by the Tribunal, which would have different columns showing rent due/due date, payments received/date received, the running balance of rent arrears owing during the tenancy (so that the Tribunal can easily see pattern as to how arrears arose and the position regarding rent arrears at the date you served notice on your tenant, etc)

3. “Pre-action” requirements – the landlord should lodge copies of letters, emails, text messages, etc sent to the tenant regarding rent arrears, as well as any information provided to the tenant about seeking debt advice, entering into payment arrangements with you, etc.

4. It is noted that you have included another eviction ground (Ground 11 – breach of a tenancy condition other than rent) and refer to internal damage having been caused by the tenant. Please supply any proof of that, such as photographs, reports or a statement from someone who has seen the damage.

Please respond within 14 days.”

- 4 The Tribunal received no response from the Applicant. On 3 September 2025 the Tribunal wrote again to the Applicant in the following terms:-

"We wrote to you on 16 and 22 July 2025 setting out the actions you must take to allow your application to proceed. We pointed out the following:

- 1. You must explain why the owner of the Property and the landlord are different entities;*
- 2. You must submit a "rent statement" in the format required by the Tribunal. The statement must have different columns showing rent due/due date, payments received/date received and the running balance of rent arrears so that the Tribunal can easily see how the arrears arose and the position regarding rent arrears at the date you served notice the tenant;*
- 3. You must lodge copies of letters, emails and text messages sent to the tenant regarding rent arrears, as well as any information provided to the tenant about seeking debt advice or entering into payment arrangements;*
- 4. You have included another eviction ground (Ground 11 – breach of a tenancy condition other than rent) and refer to internal damage having been caused by the tenant. Please supply any proof of that, such as photographs, reports or a statement from someone who has seen the damage.*

*We asked you respond within 14 days of our letter of 22 July 2025. You have not replied. Please now reply no later than **17 September 2025** or your application might be rejected.*

Recovery of possession of tenanted properties can be complex, and you are strongly advised to take legal or specialist housing advice before proceeding further. The Tribunal cannot give you advice and can only point out the steps to be taken to ensure compliance. The above points set out the essential statutory criteria. The Tribunal has no power to waive or vary them. If you cannot cure the defects in your application, you should consider withdrawing it and starting afresh."

- 5 The Tribunal has received no further response from the Applicant as at the date of this decision.

Reasons for decision

- 6 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."*
- 7 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 for further information on two occasions. They have been warned that a failure to provide the information 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

24 October 2025

Legal Member/Chair

Date