



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/25/2605 and FTS/HPC/CV/25/2603

Re: Property at Home Farm Farmhouse, Hurlford, Kilmarnock, KA1 5JS (“the Property”)

Parties:

Mr Michael Findlay, Carnell House, Carnell Estate, Hurlford, Kilmarnock, KA1 5JS (“the Applicant”)

Tribunal Members: Ruth O’Hare, Legal Member with delegated powers of 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 applications received by it on 17 June 2025. The Tribunal therefore rejects the applications under Rule 8(1)(c) of the Rules.

Background

- 1 The Applicant applied to the Tribunal for an eviction order under rule 109 of the Rules and section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). At the same time the Applicant applied to the Tribunal for a payment order under rule 111 of the Rules and section 71 of the 2016 Act. The applications were conjoined as they related to the same parties and same tenancy. For the avoidance of doubt, this decision pertains to both applications.
- 2 In terms of rule 5(2) of the Rules, a Legal Member with delegated powers from the Chamber President reviewed the applications to assess whether they had been lodged in the required manner. Following said review the Tribunal wrote to the Applicant on 18 July 2025 requesting further information under rule 5(3) of the Rules in the following terms:-

“A Legal Member of the Tribunal with delegated powers of the President has considered your applications and requests that you deal with the following to allow your applications to proceed:

1. Please submit a copy of the tenancy agreement. This is an essential legislative requirement and is needed to evidence that the correct statutory processes have been carried out for the eviction action and that there is a contractual basis for the payment action.

2. Please submit evidence of compliance with the pre-action requirements in notifying the tenant/debtor.

3. The applications proceed in the name of Michael Findlay. The land register shows that registered proprietor to be Rosina Findlay. Please explain or evidence the Applicant’s entitlement to raise the proceedings.

4. The eviction action is based on Ground 12, three consecutive months’ rent arrears. The statement submitted includes payments due for services other than rent. Please submit a statement showing only rent due and owing. Ground 12 cannot be used for payments other than rent.

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 and the Tribunal has no power to waive or vary them.

Please reply no later than 15 August 2025 or your application might be rejected.”

3 On 18 July 2025 the Tribunal received a response from the Applicant with a copy of the tenancy agreement, a document headed “Outstanding Invoices” and a copy of the notice to leave. The Applicant explained that Rosina Findlay was the owner of Little Hill Farm House, whilst he was the owner of the property.

4 On 7 August 2025 the Tribunal wrote again to the Applicant under rule 5(3) in the following terms:-

“A Legal Member of the Tribunal with delegated powers of the President has considered your applications and your response.

1. Please provide a rent statement which only relates to rent and shows the rent due, the payments made and the running monthly total outstanding for the whole period of the arrears. This must only relate to rent and must include the date the rent was due and the date that payments were made.

2. You have submitted a further copy of the Notice to leave. That is not what was requested. If you have complied with the rent arrears pre action protocol please provide evidence of this.

3. Please provide evidence that the Applicant owns the property.

4. The CV case includes a claim for fuel. There is no provision in the tenancy agreement for the tenant to pay the landlord for fuel. It therefore appears to be a separate arrangement which would fall outwith the Tribunal's jurisdiction. Please either provide an amended application which relates only to the rent or clarify the legal basis upon which the Applicant can seek the fuel costs and why the Tribunal has jurisdiction to deal with the matter. Please also provide evidence of the costs which are recoverable such as invoices from the provider.

Please respond within 14 days or your applications may be rejected."

- 5 The Tribunal received no response from the Applicant. On 4 September 2025 the Tribunal wrote again to the Applicant with a copy of the request for information dated 7 August 2025, noting his lack of response. The Tribunal requested the information be provided no later than 18 September 2025 failing which the application may be rejected.
- 6 The Tribunal has received no further response from the Applicant as at the date of this decision.

Reasons for decision

- 7 The Legal Member considered the applications in terms of the Rules and determined that the applications 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.*"
- 8 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 applications in their current form do not meet the mandatory requirements for lodgement that apply to an application under Rule 109 and Rule 111 of the Rules. The Applicant has been asked for further information on three occasions. He has been warned that a failure to provide the information may result in the applications 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 applications 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