



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

Chamber Ref: FTS/HPC/EV/25/2451

Re: Property at 10 Leithland Road, Pollok, Glasgow, G53 5SL (“the Property”)

Parties:

Mr Scott Raynal, 30 Craigmuir Place, Penilee, Glasgow, G52 4DW (“the Applicant”)

Tribunal Members: Ruth O’Hare, with delegated powers from the Chamber President

Decision

The Legal Member of the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that this application received on 8 June 2025 is frivolous and should therefore be rejected under Rule 8(1)(a) of the Rules.

Background

- 1 This is an application for an eviction order under rule 65 of the Rules and section 18 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The application was received by the Tribunal on 8 June 2025.
- 2 In accordance with rule 5(2) of the Rules, a Legal Member with delegated powers from the Chamber President reviewed the application to ascertain whether it met the required manner of lodgement for an application under Rule 65. On 9 July 2025 the Tribunal wrote to the Applicant 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. Please provide a copy of the tenancy agreement.*
- 2. The AT6 provided is invalid as inadequate notice is given. It is dated 8 June and states proceedings will not be raised before 9 June 2025. It also refers to ground 10 which relates to the tenant providing a notice to quit and is not a valid eviction ground in these circumstances. Please confirm you wish to withdraw the application and re-serve the notices.*
- 3. If you wish to proceed you will require to provide:*

- (1) a valid AT6 with valid eviction grounds and proof of service.
- (2) evidence of the eviction ground
- (3) the notice to quit and proof of service.
- (4) proof of service of the section 11 notice
- (5) proof of landlord registration
- (6) a copy of your title or the property.
- (7) A copy of the tenancy agreement.

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.”

- 3 The Tribunal received no response from the Applicant. On 20 August 2025 the Tribunal wrote again to the Applicant requesting the information within fourteen days, failing which it was likely that the application would be rejected.
- 4 On 20 August 2025 the Tribunal received an email from the Applicant. He explained that he had inherited the property from his late father and did not have some of the information requested by the Tribunal. In particular, he did not have a copy of the tenancy agreement. He stated that the eviction ground was the sale of the property as part of his father’s estate, and the tenant had been given a notice to quit on 17 January 2025 which expired on 14 April 2025. He did not know what a section 11 notice was and did not have details of landlord registration. He conceded that he may have made errors in the paperwork but his intentions were clear.
- 5 On 8 September 2025 the Tribunal wrote again to the Applicant in the undernoted terms:-

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

1. You have not addressed the issue of the from AT6 being invalid because insufficient notice has been given. An application for eviction cannot succeed unless a valid notice has been served on the tenant. Please confirm that you wish to withdraw the application so that you can arrange for service of a valid notice.

2. For any future application, we have provided details of some of the information you will need to send in support of an application. If you do not have the tenancy agreement, you should provide as much information as you can about the tenancy, such as the name and address of the landlord and tenant, when the tenancy started and the level of rent payable.

You may wish to take advice from a solicitor or housing advisory service before responding. Please respond within 14 days. If you fail to provide the necessary information the tribunal may reject your application.

Please reply to this office with the necessary information by 22 September 2025. If we do not hear from you within this time, the President may decide to reject the application.”

- 6 On 25 September 2025 the Applicant emailed the Tribunal confirming that he had sent a notice to leave to the tenant on 17 January 2025 giving her three months notice. He had then completed the Form AT6 and section 11 notice on 8 June 2025. He conceded the error in timescales but asserted that the principles were clear. It was now 8 months since the notice to leave was given to the tenant. The eviction notice needed to be implemented. In respect of the tenancy, the Applicant explained that the landlord was his late father. He understood the tenancy had commenced in September 2017, with a rent of £500 per month.

Reasons for decision

- 7 Rule 8(1)(a) of the Rules allows an application to be rejected by the Chamber President if ***“they consider the application is vexatious or frivolous”***.
- 8 “Frivolous” in the context of legal proceedings is defined by Lord Justice Bingham in *R v North West Suffolk (Mildenhall) Magistrates Council* (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”*.
- 9 This application relates to an assured tenancy, as defined by section 12 of the 1988 Act, which commenced in September 2017. The Applicant has been unable to produce the tenancy agreement between the parties, perhaps understandably as the property forms part of the estate of his late father.
- 10 The Applicant has applied under rule 65 of the Rules. Rule 65 applies to applications for possession of an assured tenancy on any of the grounds under schedule 5 of the 1988 Act. In terms of section 18(6) of the 1988 Act, the Tribunal *“shall not make an order for possession of a house which is for the time being let on an assured tenancy, not being a statutory assured tenancy, unless (a) the ground for possession is ground 2 in Part I of Schedule 5 to this Act or any of the grounds in Part II of that Schedule, other than Ground 9, Ground 10, Ground 15 or Ground 17; and (b) the terms of the tenancy make provision for it to be brought to an end on the ground in question.”*
- 11 It is unclear as to which ground for possession the Applicant seeks to rely upon in this case. The Form AT6 produced cites ground 10, which applies in circumstances where the tenant has given notice to terminate the tenancy and has failed to remove from the property. There is no evidence that the tenant has given the Applicant a notice to quit. The Applicant has since advised that the eviction ground is his intention to sell, which is not a valid ground under schedule 5 of the 1988 Act.
- 12 Furthermore, the lack of a tenancy agreement presents significant difficulties for the Applicant in this case. The Applicant does not deny that such an agreement exists, only that he does not have access to it. The Tribunal cannot ascertain whether the document makes explicit provision for the tenancy to be brought to an end on any of the grounds under Schedule 5. The Applicant would therefore

require to terminate the contractual assured tenancy by service of a valid notice to quit, before the application could be considered.

- 13 The Applicant has produced a document headed “notice to leave”. It is not however in the format required for a notice to quit. It does not contain the information required under the Notice to Quit etc. (Prescribed Information) Regulations 1988. The tenancy therefore remains a contractual assured tenancy.
- 14 Finally, the Form AT6 produced with the application does not give the tenant a minimum of two weeks notice as required under section 19 of the 1988 Act. The notice is dated 8 June 2025 and states that proceedings will not be raised before 9 June 2025.
- 15 I have therefore concluded that there are fundamental defects with this application which means it is futile, with no prospects of success. Accordingly I can see no option but to reject the application at this stage, under rule 8(1)(a) of the Rules.
- 16 I would strongly encourage the Applicant to seek legal advice prior to submitting a further application to the Tribunal. Residential tenancy law can be complex, particular as it applies to assured tenancies, and it may benefit the Applicant to obtain some guidance to ensure he is compliant with the statutory requirements for an application under rule 65.

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

27 October 2025

Legal Member/Chair

Date