



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/25/2870

Re: Property at 101, 13 Seton Street, Ardrossan, KA22 8JJ (“the Property”)

Parties:

Mr Kenneth Rosendale, 27 Ardneil Court, Ardrossan, KA22 7NQ (“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 4 July 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 31 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 Chamber President has considered the application and has commented as follows:

- 1. The notice to leave appears to be invalid because it gives insufficient notice to the respondent in relation to ground 1, which requires 84 days’ notice. In addition, it gives insufficient notice in relation to ground 12. In*

terms of section 62(5) of the Private Housing (Tenancies) (Scotland) Act 2016, it is assumed that the tenant will receive the Notice to Leave ("NTL") 48 hours after it is sent. On the basis that the notice was served on 14 May 2025, the tenant would be assumed to have received it on 16 May 2025. The period of notice for grounds 1 and 12 therefore would not expire until 8 August 2025. Further, in terms of section 62(4) of the Act, the date you become entitled to make an application is the day falling after the expiry of the notice. You will note that part 4 of the notice to leave states "An application will not be submitted to the Tribunal for an eviction order before (insert date). This is the earliest date that Tribunal proceedings can start and will be at least the day after the end date of the relevant notice period...." It appears that the date which should have been entered at part 4 was 9 August 2025. The NTL is therefore invalid. Your application cannot succeed without a valid notice to leave. Please confirm that you wish to withdraw the eviction application to enable you to serve a valid NTL or alternatively explain the basis upon which you think the application can be accepted.

- 2. For any future application, please note that we will require the following:*
- a) Evidence of landlord registration.*
 - b) A copy of the tenancy agreement. Supported by the Scottish Courts and Tribunals Service www.scotcourtribunals.gov.uk*
 - c) Clarification of the ground(s) of eviction you are relying upon. Your application form mentions ground 8A. Ground 8 relates to a tenancy to provide an employee with a home. The notice to leave mentions grounds 1 and 12.*
 - d) A copy of the section 11 notice you need to serve on the local authority, together with evidence of service.*
 - e) Evidence supporting the grounds of eviction, such as a rent statement and a home report or letter of engagement from a solicitor or estate agent.*

You may wish to take advice from a solicitor or housing advisory service.

Please confirm within 14 days that the application is to be withdrawn. If you fail to provide the necessary information the tribunal may reject your application.

Please reply to this office with the necessary information by 14 August 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 2 September 2025 the Tribunal wrote again to the Applicant with a copy of the request for information dated 31 July 2025. The Tribunal asked the Applicant to reply no later than 16 September 2025, failing which the President may decide to reject the application.
- 4 The Tribunal has received no further response from the Applicant as at the date of this decision.

Reasons for decision

- 5 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.”*
- 6 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. He has 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