



**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/25/4424

Parties

Alastair Gebbie (Applicant)

4 Morar Drive Linwood, PA3 3PX (House)

1. On 13.10.2025 the First –tier Tribunal for Scotland, Housing and Property Chamber (FTT) received an application for an order for possession under Rule 65 of the Procedural Rules and s 18 of the Housing (Scotland) Act 1988. The ground stated on the application is “property is under offer and being SOLD”. The documents sent with the application were 2 pages of a document headed Short Assured Tenancy Agreement indicating that the tenancy commenced on 12.11.2017 with no end date, a document headed “Notice to Leave” dated 10.9.2025 asking the tenant to vacate the premises by 10.10.2025 on grounds 1 and 2 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 and is not in the prescribed format of a Notice to Leave under the 2016 Act, a s 11 notice and receipt confirmation from the local authority, an email from the tenant dated 7.10.2025 confirming receipt of the notice document. On 3.11.2025 the applicant wrote to the FTT stating that the property had

already been sold.

2. On 10.11.2025 the FTT wrote to the applicant as follows: *"I refer to your recent application which has been referred to the Chamber President for consideration. 1. The title is in the name of Stuart Gebbie, but the tenancy and the application are in the name of AR Gebbie. Please confirm on what legal basis AR Gebbie has right, title and interest to let out the property. 2. The tenancy appears to begin on 12th November 2017 and therefore appears to be an assured tenancy. Accordingly the regime under the Housing (Scotland) Act 1988 will apply, and a Notice to Leave is therefore not the correct document to serve to bring the tenancy to an end. Please confirm why this has been used. (Please also note that a wish to sell the property is not a ground of eviction in terms of the 1988 Act). 3. The initial term of the tenancy is not shown on the tenancy agreement. This will make it difficult to calculate the ish date. It would appear that, unless you can satisfy the Tribunal regarding the foregoing questions, the application may not be eligible to proceed. Please confirm if you wish to withdraw it, and raise a fresh application once you have checked the legal position and served the appropriate notices. You may wish to consider taking advice from a solicitor or an advice agency. Please reply to this office with the necessary information by 24 November 2025. If we do not hear from you within this time, the President may decide to reject the application."*
3. On the same day the Applicant replied: *(1) I am the father of STUART GEBBIE and have the permission to act on his behalf (2) when tenancy began it was AST rolling lease (3) AST was signed ,what is an ish date? any other info please contact me ,as said the house is SOLD subject to vacant possession. On 12.11.2025 the Applicant added that the tenant is "quite happy to vacate, given a possession order, to move on and start a new beginning".*
4. The documents contained in the case file are referred to for their terms and held to be incorporated herein.

DECISION

5. 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."

6. 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.

REASONS FOR DECISION

The Application is made in terms of Rule 65 of the Rules of Procedure. This relates to orders for possession in relation to assured tenancies under S 18 (1) of the Housing (Scotland) Act 1988.

Rule 65 states: Where a landlord makes an application under section 18(1) (orders for possession) of the 1988 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; and

(iv) the possession grounds which apply as set out in Schedule 5 of the 1988 Act;

(b)be accompanied by—

(i)a copy of the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the landlord can give;

(ii)a copy of the **[F40**notice served on the tenant by the landlord**]** of intention to raise proceedings for possession of a house let on an assured tenancy;

(iii)a copy of the notice to quit served by the landlord on the tenant (if applicable); and

(iv)evidence as the applicant has that the possession ground or grounds has been met; **F41...**

[F42(v)a copy of the notice given to the local authority by the landlord under section 11 of the Homelessness (Scotland) Act 2003 (if applicable), and

(vi)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.

1. Rule 65 (a) requires that the application must state a ground as set out in Schedule 5 of the Housing (Scotland) Act 1998 and (b) requires the following documents to be provided with an application: (i) a copy of the tenancy agreement or, if this is not available, as much information about the tenancy as the landlord can give, (ii) a copy of the notice served on the tenancy by the landlord of intention to raise proceedings for possession of a house let on an assured tenancy, (iii) a copy of the notice to quit served by the landlord on the tenant (if applicable), (iv) evidence that the possession ground or grounds has been met, (v) a copy of the notice given to the local authority by the landlord under section 11 of the Homelessness (Scotland) Act 2003.
2. The tenancy agreement pages provided show that the tenancy was entered into on 12.11.2017, which is a date prior to the commencement of the Private Housing (Tenancies) (Scotland) Act 2016 on 1.12.2017. Thus the tenancy cannot be a Private Residential Tenancy to which the grounds of the 2016 Act apply. It is correct that the application was made under the provision of rule 65, which relates to tenancies under the Housing (Scotland) Act 1998.
3. However, this requires for the application to be accompanied by an AT6 notice stating a ground included in Schedule 5 of the Housing (Scotland) Act 1988 and evidence as the applicant has that the possession ground or grounds has been met. S 18 (1) of the Housing (Scotland) Act 1988 states “The First-tier Tribunal shall not make an order for possession of a house let on an assured tenancy except on one or more of the grounds set out in Schedule 5 to this Act.” It is thus clear that the evidence to be provided to show that a ground applies has to relate to one of the grounds stated in Schedule 5 and that only such a ground can be used for an AT6 notice. In this case no AT6 notice was provided and the ground mentioned in the application, the sale of the property, is not a ground in terms of Schedule 5 of the Housing (Scotland) Act 1998. The grounds mentioned in the notice document are grounds stated in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 and do not apply to an application under rule 65. The notice is invalid and no AT6 notice was submitted.

No evidence has been provided that a ground stated in Schedule 5 of the Housing (Scotland) Act 1988 has been met. Thus the requirements in rule 65 (a) (iv) and (b) (iv) are not met.

4. The tenancy agreement has not been provided in full. Thus the requirement in terms of rule 65 (b) (i) has not been complied with.
5. The Notice to Leave provided is not a Notice to Quit in terms of the Housing (Scotland) Act 1998 and does not meet the requirements under the Assured Tenancies (Notices to Quit Prescribed Information) (Scotland) Regulations 1988 as amended. A Notice to Leave is a document defined in S 62 of the 2016 Act and relates to a Private Residential Tenancy, which in turn would be a tenancy entered into after 1.12.2017 and not to assured tenancies under the 1988 legislation. It refers to the grounds stated in schedule 3 of the 2016 Act and not to the grounds stated in schedule 5 of the 1988 Act, which would be relevant to the type of tenancy provided. For the reasons stated above it would not be appropriate for the Tribunal to accept the application because the application does not fulfill the lodging requirements of a valid application under rule 65 (b) (iii).
6. It is noted that the Applicant is not the person stated as the owner in the title deeds for the property. He stated that he has authority to act on behalf of the owner but has not produced any evidence of such an authority and also not explained why he is making the application in his own name and not in the name of the owner as his representative. On balance the Applicant has not provided sufficient evidence that he has title and interest to make the application.
7. Finally, the Applicant indicates that a sale of the property has already taken place. If that is the case, then the new owner would be the landlord for the property and thus the Applicant and the previous owner on whose behalf he states he is acting would no longer have title and interest to pursue an application.
8. The fact that the tenant may not oppose any proceedings is not relevant for the determination as to whether or not the application is a valid application.
9. For the reasons stated above it would not be appropriate to accept the application as the Applicant has not evidenced his right to make the application and as the application itself does not comply with the requirements of an application under rule 65 of the Procedure Rules.
10. For the avoidance of doubt the Tribunal would add that this decision does not prevent the landlord of the property to make a fresh application in future, provided the correct and necessary documents are provided.

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

Petra Hennig McFatridge
Legal Member
28 November 2025