



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/25/4253

Re: Property at 3/2 22 Kirkoswald Road, Glasgow, G43 2YH (“the Property”)

Parties:

Miss Jennifer Marshall, 37 Berryknowes Drive, Glasgow, G52 2DZ (“the Applicant”)

Tribunal Members: Ruth O’Hare, Legal Member, 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 1 October 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 109 of the Rules and section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The application was received by the Tribunal on 1 October 2025. The Applicant relied upon ground 5, stating that a family member intended to live in the let property.
- 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 109. On 5 November 2025 the Tribunal wrote to the Applicant requesting further information in the following terms:-

“A legal member of the Tribunal has considered your application. We now require you provide the following information:-

- (i) *An amended Form E with the complete addresses for the applicant and respondent. The town names are missing.*

(ii) *In terms of section 55 of the Private Housing (Tenancies) (Scotland) Act 2016 an application for an eviction order cannot be made more than 6 months after the day on which the notice period expired. The notice period expired on 31 March 2025. Accordingly the deadline for making an application to the Tribunal would have been 30 September 2025. Your application was submitted on 1 October 2025. It therefore appears to be just out of time. The Tribunal has no discretion in terms of which it can extend the six month deadline. Please explain the basis upon which you believe the Tribunal can accept the application. Alternatively please confirm if you wish to withdraw your application and re-submit once a further notice to leave has been sent to the tenants.*

(iii) *Please provide proof that the section 11 notice was delivered to the local authority.*

Please reply to this office with the necessary information by 19 November 2025. If we do not hear from you within this time, the President may decide to reject the application.”

- 3 With regard to point (ii), the Applicant responded by email on 19 November 2025. She advised that the delay in submitting the application had been due to her seeking advice on the tenancy agreement. She was unfamiliar with the process and apologised for the delay. She was finding the situation stressful and was in the process of moving house again because she was unable to access the let property. It was taking a toll on her health.

Reasons for decision

- 4 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***”.
- 5 “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*”.
- 6 Section 55 of the 2016 Act states that “*a landlord may not make an application to the First-tier Tribunal for an eviction order against a tenant using a copy of a notice to leave more than six months after the day on which the relevant period in relation to that notice expired.*”
- 7 The relevant period after which a landlord can apply to the Tribunal for an eviction order must be calculated in accordance with the provisions of section 54 and 62 of the Private Housing (Tenancies) (Scotland) Act 2016. In terms of section 54(2) of the 2016 Act, where a notice to leave includes ground 5, a tenant must be given 84 days notice. In terms of section 62(4) of the 2016 Act, the day upon which a landlord can apply to the tribunal must then be the day after the notice period has expired. In terms of section 62(5) of the 2016 Act, where a notice to

leave is delivered to a tenant by email, as was the case in this application, an additional 48 hours must also be added to the notice period to consider the time it will take for the tenant to receive the notice. This means that the relevant notice period is 87 days where a notice to leave includes ground 5 and the notice has been sent by email.

- 8 In this case, the notice to leave was emailed to the tenants on 4 December 2024. In terms of section 54 and 62 of the 2016 Act, the relevant period in relation to that notice expired on 1 March 2025.
- 9 The application is therefore out of time. The six month period under section 55 of the 2016 Act within which an application could be made to the Tribunal expired on 1 September 2025.
- 10 There is no provision in the 2016 Act whereby the Tribunal can entertain an application received after the six month deadline. Whilst the Legal Member has sympathy for the Applicant in this case, the application is ultimately futile.
- 11 As an observation, it is noted that the notice to leave in this case states that an application will not be made to the Tribunal before 31 March 2025. If the Tribunal were to calculate the six month period using that date, the application would still not be timeous as the period within which an application could be made expired on 30 September 2025.
- 12 Accordingly, the Legal Member has concluded that the application must be rejected 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

28 November 2025

Legal Member/Chair

Date