



**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/25/3707**

**Re: Property at 85 TR Dens Road, Dundee, DD3 7HW (“the Property”)**

**Parties:**

**Mr Euan Cummings, 10 Woodland View, Southwell, Northhamshire, NG25 0AG (“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 29 August 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 application was received by the Tribunal on 29 August 2025.
- 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’s representative, Rockford Properties, on 18 September 2025 in the following terms:-

*“Your application has been reviewed by a legal member of the First-tier Tribunal with delegated powers of the Chamber President who has raised the following matters.*

*Your application names the applicant as Euan Cummings. The tenancy agreement names the landlord as Euan Cumming. Title deeds and landlord*

*registration information obtained by the tribunal show the owner and registered landlord to be Suzanne Cumming. Please explain this discrepancy.*

*Please provide a mandate from the applicant authorising you to act as the applicant's representative in this matter.*

*Please provide a copy of the notice to leave ("NTL") served upon the tenant together with evidence of the method of service upon the tenant and evidence of its receipt . Please confirm that service was also made in accordance with the manner agreed in the tenancy agreement.*

*Your application form indicates that you seek an eviction based on ground 12 as contained in the relevant schedule to the Private Housing (Tenancies) (Scotland) Act 2016. In order for a notice to be valid on that ground, the tenant must have been in arrears for three consecutive months at that date it is served. It is the length of time that arrears have existed which is crucial not the amount of arrears involved.*

*The rent statement you have provided seems to suggest that that your tenant had no rent arrears on 18 April 2025 and then entered into arrears on or after 18 May 2025. If so, your tenant would not have been in arrears for three consecutive months until 18 August 2025 at the earliest. Is this correct? If so, any notice served upon him prior to that date will be invalid.*

*We would refer you to the Upper Tribunal decisions in the cases of Rafique v Morgan (2022) UT 07 and Majid v Gaffney (2019) UT 59. These Upper Tribunal decisions considered whether it is competent for a notice to leave to be served before a tenant has been in arrears for that required period of three consecutive months. The decisions confirmed that a notice to leave cannot be served until a tenant has been in arrears consecutively for a period of three months. The amount of the arrears has no bearing on it. The crucial element here is the period of time during which of the arrears have existed consecutively. This tribunal is bound to follow decisions which interpret relevant legal provisions issued by the Upper Tribunal, unless you can persuade a tribunal that the Upper Tribunal cases are wrongly decided.*

*Please provide evidence of compliance with The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020. What steps have been taken in conjunction with the tenant to manage arrears prior to commencing proceedings for repossession on the grounds of rent arrears.*

*Further queries may arise upon receipt of your reply.*

*Upon receipt of the above information, a final decision can then be taken on whether the application is valid and whether it should be accepted and referred to the tribunal for full determination.*

*The tribunal would suggest that you may find it useful to seek independent legal advice on this application, the matters contained in this letter and any further*

*action which you wish to take. Please respond to this letter within the next two weeks.”*

- 3 The Tribunal received no response from the Applicant's representative. On 3 November 2025 the Tribunal sent a reminder to the Applicant's representative requesting the information within 14 days, failing which the application may be rejected without further notice.
- 4 No further response has been received from the Applicant, nor their representative, 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's representative has been asked for further information on two occasions. They have 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**

**3 December 2025**

**Legal Member/Chair**

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**Date**

