



DECISION AND STATEMENT OF REASONS OF FIONA WATSON, 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 Rules")

in connection with

235 Ash Road, Cumbernauld, G67 3EA ("the Property")

Case Reference: FTS/HPC/EV/25/4471

Christopher Dunn, 53 Grangemouth Gardens, Cumbernauld, G68 9BN ("the Applicant")

1. The Applicant seeks a repossession order in terms of Rule 109 of the Rules. The Applicant lodged the following documents with the application:
 - (i) Notice to Leave and evidence of service
 - (ii) S11 notice to local authority and evidence of service
 - (iii) Tenancy agreement
2. On 11 November 2025, a request was issued to the Applicant's representative that they provide (amongst other matters) the following information:

"The notice to leave submitted gave notice that proceedings would not be raised before 28 December 2024. Please have regard to section 55 of the Private Housing (Tenancies)(Scotland) Act 2016. This section states: 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. In light of section 55 please set out on what basis the present application can

competently proceed.”

3. By email of 12 November 2025 the Applicant’s representative provided other information requested but did not provide a response to the issue as set out above.
4. By email of 4 December 2025, the Applicant’s representative was again asked to set out the basis upon which the application could competently proceed, given the terms of section 55 of the 2016 Act. By email response of the same date, the Applicant’s representative stated:

“I had a previous application in ref FTS/HPC/EV/25/2280 and a response from yourselves went into my junk folder which I did not see until it was too late, you will be able to see all correspondence, appealed to have it reopened but was rejected and advised to start new application, which I did. Hopefully under these circumstances this will be honoured.”

DECISION

5. The Legal Member considered the application in terms of Rule 8 of the Chamber 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 and the documents submitted by the Applicant in support of same, the Legal Member considers that the application should be rejected on the basis that there is good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Rules.**

Reasons for Decision

7. The Applicant Representative's email response of 4 December 2025 fails to provide any legal basis as to how the application could be deemed to be competent, in light of the provisions of section 55 of the 2016 Act. Whilst it has been submitted that this application is effectively a re-submission of a previous application which had been rejected, this does give any explanation as to how the application can be competently accepted when section 55 has not been complied with. Section 55 of the 2016 Act is quite clear in stating 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.*" The "relevant period" is set out in section 54(2):

"The relevant period in relation to a notice to leave

(a) begins on the day the tenant receives the notice to leave from the landlord, and

(b) expires on the day falling –

(i) 28 days after it begins if subsection (3) applies,

(ii) 84 days after it begins if subsection (3) does not apply.

8. In this case the Notice to Leave was dated 2 October 2024 and set out that “*an application will not be submitted to the Tribunal for an eviction order before 28 December 2024.*” The relevant period for this Notice ends on 28 December 2024. Accordingly, in terms of section 55, a landlord cannot make an application to the First-tier Tribunal using a notice more than 6 months after the day on which the relevant period expired, meaning in this case, an application cannot be made after 28 June 2025. The application was submitted on 16 October 2025. Regardless of why the previous application submitted had been rejected, section 55 does not allow the landlord to rely on a Notice if 6 months has passed after expiry of the notice period. The Tribunal has no discretion to extend or alter the period set out in section 55 of the 2016 Act. Accordingly, if the landlord wishes to raise proceedings for repossession of the Property, a fresh Notice to Leave will require to be served, and a new application raised on the basis of any such new notice.
9. The Legal Member therefore determines that it would not be appropriate to accept the application. The application is rejected on that basis.

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.

Fiona Watson
Legal Member
29 December 2025