



**DECISION AND STATEMENT OF REASONS OF MARTIN J. MCALLISTER,
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

Flat 3/2 Mansel Street, Glasgow, G21 4JJ ("the Property")

Case Reference: FTS/HPC/RP/25/5009

Ana Montenegro ("the Applicant")

1. The Applicant submitted an application to the Tribunal in terms of Section 22 (1) of the Housing (Scotland) Act 2006 ("the 2006 Act"). The application was dated 20 November 2025. The documentation submitted with the application contained a Scottish Secure Tenancy Agreement date 31 January 2020.

DECISION

2. The Legal Member considered the application in terms of Rule 5 of the Chamber Procedural Rules. Rule 5 provides: - (1) An application is held to have been made on the date that it is lodged if, on that date, it is lodged in the manner as set out in rules 43, 47 to 50, 55, 59, 61, 65 to 70, 72, 75 to 91, 93 to 95, 98 to 101, 103 or 105 to 111, as appropriate. (2) The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged

in the required manner by assessing whether all mandatory requirements for lodgment have been met. (3) If it is determined that an application has not been lodged in the prescribed manner, the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, may request further documents and the application is to be held to be made on the date that the First-tier Tribunal receives the last of any outstanding documents necessary to meet the requirement manner for lodgment.“

3. **After consideration of the application the Legal Member considers 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.” The basis of the decision is that the application is incompetent.**

REASONS FOR DECISION

4. In terms of section 22 (1) of the 2006 Act, a tenant may apply to the Tribunal for determination of whether a landlord has failed to comply with the duty to maintain a house to the repairing standard.
5. The Respondent is a Council and the tenancy agreement in respect of the Property is a Scottish Secure Tenancy which is governed by the Housing (Scotland) Act 2001.
6. In terms of the 2006 Act, the repairing standard applies to “a tenancy of a house let for human habitation unless it is – (a) a Scottish secure tenancy.” (section 12(1)).
7. The tenancy of the property is a Scottish secure tenancy and the repairing standard does not apply. It is therefore not competent for the Applicant to submit an application for a determination of whether the landlord has failed to comply with the repairing standard.

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.

M McAllister

Martin J. McAllister, Legal Member
16 January 2026