

Housing and Property Chamber
First-tier Tribunal for Scotland



**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/CV/25/3797

Parties

Miss Lynsey Doherty (Applicant)

Flat 6, 7 Crooksotn Court, Larbert, FK5 4XE (House)

A BACKGROUND

1. The applicant lodged with the First –tier Tribunal for Scotland, Housing and Property Chamber (the Tribunal) an application made under rule 111 of the Procedural Rules dated 5.9.25. The application documents are referred to for their terms and held to be incorporated herein. The cover letter explicitly stated that the application was for a “Rent Repayment Order under section 144 of the Housing (Scotland) Act 2014. The application stated the order sought was payment of up to 12 months rent.
2. On 22.9.25 the FTT wrote to the applicant requesting a copy of the tenancy agreement and asking for representations regarding the legal basis of their claim.
3. The applicant replied on 24.8.25: My tenancy began in 2015 under a Short Assured

Tenancy for an initial 6 month period and has continued as a rolling tenancy. My claim is based on the following: Landlord Registration: The landlord was not registered with the local authority as required for the duration of my tenancy or at the time of issuing notices. He only registered after the Rent Determination Panel hearing in order to submit another notice to quit. Safety compliance: The landlord failed to provide the statutory gas safety certificate, electrical report and EPC. Smoke alarms were only fitted six days before the Rent Determination Panel hearing in Aug 2025, meaning that for years the property was non - compliant and unsafe. This put me and my son at risk, as well as others living in the block. Rent increase: The landlord attempted to impose a 25% rent increase with the aim of forcing me out the property. This increase was rejected by the Rent Determination Panel, confirming that it was not reasonable or lawful. Impact on health: My GP has confirmed that the stress and anxiety caused by these circumstances, including the attempted rent increase and the threat of eviction, have led to prescribed medication and time off work from my NHS role. I was advised by Citizens Advice Service to pursue through this channel and for the above reasons, I respectfully submit that I have a valid claim before the Tribunal and ask the application is allowed to proceed.

4. On 28.10.25 the FTT wrote again in the following terms: A Legal Member of the Tribunal has reviewed your application. Before a decision can be made on whether your application can proceed, we require you to provide us with the following information: 1. We refer to your email of 24 September 2025. You have not provided a copy of the tenancy agreement as has been requested. Please confirm whether or not you hold a copy? If not, please provide as much information as you can regarding its terms (start date, end date, rental liability, deposit paid etc.) 2. Your email does not confirm the legal basis upon which you are making the application. We assume that your reference to s144 of the Housing (Scotland) cAt 2014 is an error, given such a section does not exist. If you are seeking to rely on an alternative statute, please confirm which one? You are required to specify the legal basis upon which you consider that you are entitled to repayment of 12 months rent paid. Please note that failure to be registered as a landlord or an unsuccessful/incompetent rent increase is not in itself a basis for a claim for repayment of rent. Please provide the information no later than 11 November 2025. Upon receipt of the information a Legal Member will consider your response and may seek further information from you before a decision is made on whether your application can proceed. In the absence of a response your application may be rejected without further notice.
5. On 3.11.25 the applicant replied with further explanations and stated: I am applying for a Rent Repayment Order on the grounds that the landlord has committed an offence by letting the property while unregistered for more than 8yrs of the 10 yr tenancy. I also rely on the landlords breaches of statutory repairing and safety obligations and failure to meet the tolerable standard under the Housing Scotland Act
6. On 26.11.25 the FTT again wrote to the applicant stating: A Legal Member of the Tribunal with delegated powers of the President has considered your application and your reply to our letter asking for further information and advises as follows: We note all that you write. It would appear that you seek an Order not available in Scotland. Rent Repayment Orders are available in

England only, in terms of Section 40 of the Housing and Planning Act 2026. If this is the purpose of your application, you should withdraw it. If you intended to seek compensation from your landlord on other bases open to you in Scots Law, you are strongly advised to take legal or specialist housing advice before proceeding further. The Tribunal cannot give you advice or assist you to frame an application. Please reply to this office with the necessary information by 10 December 2025. If we do not hear from you within this time, the President may decide to reject the application.

7. No reply was received.
8. The application documentation is referred to for its terms and held to be incorporated herein.

B DECISION

1. 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."

2. **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.**

C REASONS FOR DECISION

1. The Application is made under Rule 111 of the Procedural Rules. The rule requires:
"111. Where a person makes any other application to the First-tier Tribunal by virtue of section 71(1) (First-tier Tribunal's jurisdiction) of the 2016 Act, the application must—
(a) state—
(i) the name and address of the person;
(ii) the name and address of any other party; and
(iii) the reason for making the application;
(b) be accompanied by—
(i) evidence to support the application; and
(ii) a copy of any relevant document; and
(c) be signed and dated by the person."
....
2. The applicant despite extensive correspondence from the Tribunal still has not provided the tenancy agreement. From the correspondence it is clear that the application relates to a tenancy which commenced in 2015. Rule 111 relates to Private Residential Tenancies under the Private Housing (Tenancies) (Scotland) Act 2016 and not to tenancies under the Housing (Scotland) Act 1988.
3. However, even if the application was deemed to be made under the provision relating to a civil application in regard to a tenancy under the Housing (Scotland) Act 1988, the FTT does not have the statutory power to make a Rent Repayment Order. A Rent Repayment Order is an order under English Law and not under Scottish legislation. The provision quoted by the applicant, S 144 of the Housing (Scotland) Act 2014 simply does not exist. The Housing (Scotland) Act 2014 only has 105 sections and no section 144. It is not clear what legislation the applicant refers to. S 40 of the Housing and Planning Act 2016 is the provision under which a rent repayment order can be made and refers specifically only to an order requiring "the landlord under a tenancy of housing in England to repay an amount of rent

by a tenant". It is not a provision applicable in Scotland.

4. The FTT does not have jurisdiction to issue a Rent Repayment Order.
5. It would not be appropriate for the Tribunal to accept an application for a type of order for which it has no jurisdiction. The application is thus rejected.
6. As previously stated, this will not prevent the applicant to make a claim should they be able to set out a valid legal basis for such a claim and provide the necessary documents in any future application.

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

Legal Member

14 January 2026