



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 8(1)(a) of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”)**

**Chamber Ref: FTS/HPC/EV/25/4322**

**Re: Property at 37 Stoneyton Terrace, Aberdeen, AB21 9HA (“the Property”)**

**Parties:**

**Mr Allan Gowie, 1 Cairnview Crescent, Rosehill, Aberdeen, AB16 5DR (“the Applicant”)**

**Tribunal Members: Ruth O’Hare, Legal Member, with delegated powers from the Chamber President**

**Decision**

The Legal Member determined that this application received on 7 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 by email on 7 October 2025. The Applicant sought to rely upon grounds 1 and 12 as the grounds for eviction.
- 2 In accordance with Rule 5(2) of the Rules, a Legal Member with delegated powers from the Chamber President reviewed the application to assess whether it met the mandatory requirements for an application under rule 109. Following said review, the Tribunal wrote to the Applicant on 4 November 2025 requesting, amongst other information, evidence of service of the notice to leave on the tenant.
- 3 The Applicant responded with various documents but did not provide said evidence. On 25 November 2025 the Tribunal wrote again to the Applicant by email requesting evidence of service of the notice to leave. The Tribunal further highlighted that the notice was dated 11 December 2024, with an effective date of 6 March 2025, and that a notice to leave expired after six months.

4 On 26 November 2025 the Applicant emailed the Tribunal, stating “served notice to leave signed by tenant and myself....already sent by email. Notice to leave was submitted within six of expiry date, being April”.

5 On 18 December 2025 the Tribunal wrote to the Applicant by email in the following terms:-

*“The notice to leave is dated 11 December 2024 and the period of notice expired on 6 March 2025. You submitted your application on 7 October 2025. Section 55 of the Private Housing (Tenancies)(Scotland) Act 2016 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 the notice expired.” The 6 month period for this notice to leave expired on 6 September 2025. Your application was lodged on 7 October 2025 and is therefore out with the requisite period. Please confirm that you wish to withdraw the application or provide your submission as to how the Tribunal can accept the application bearing in mind the terms of section 55.”*

6 On 18 December 2025 the Applicant responded by email to the Tribunal stating, “Application was sent in august by post as printer not working. Please see date as spoke to someone there and said would forward copy, thats why you see 7th Oct.2025. Would hope you will move forward with application.” The Applicant provided an email, purported to have been sent to the Tribunal on 14 August 2025 headed “Eviction notice”.

7 On 22 January 2026 the Tribunal wrote again to the Applicant by email in the following terms:-

*“The Tribunal has no record of receiving an application from you in August 2025. If this had been received, you would have received an acknowledgement of it.*

*Your application was registered on 7 October 2025, when it was received. The Notice to leave is dated 11 December 2024 and specifies that an application will be made after 6 March 2025. This means that the application was received more than 6 months after the relevant date. In terms of section 55 of the 2016 Act, a landlord may not make an application using a notice to leave more than 6 months after the expiry of the notice period. The Tribunal has no discretion in this matter. Please either provide a valid notice to leave with evidence of service or withdraw the application. If you do not do so this application will be rejected.”*

8 On 22 January 2026 the Applicant emailed the Tribunal stating “it was sent in post check date on paperwork”.

## **Reasons for decision**

1 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**”.

- 2 “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”*.
- 3 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.”*
- 4 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 1, 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. Section 62(5) of the 2016 requires an additional 48 hours to be added to the notice period where the notice is delivered by email or recorded mail. The Applicant has stated that the notice to leave was hand delivered to the tenant. This means that the relevant period is 85 days.
- 5 In this case, the notice to leave was given to the tenant on 11 December 2024. The notice to leave states that an application will not be submitted to the Tribunal any earlier than 6 March 2025.
- 6 The six month period under section 55 of the 2016 Act within which an application could be made to the Tribunal expired on 7 September 2025. The application was received on 7 October 2025. Whilst the Applicant has stated that he sent the application to the Tribunal by post in August 2025, he has provided no evidence of this, other than an email dated 14 August 2025 to the Tribunal along with an automated response from the Tribunal on the same date. The response does not acknowledge receipt of an application. If an application had been submitted, it would have been registered and acknowledged by the Tribunal. The only application the Tribunal has received is the application that was emailed to the Tribunal on 7 October 2025.
- 7 There is no provision in the 2016 Act whereby the Tribunal can entertain an application received after the six month deadline. The application is therefore futile.
- 8 Accordingly, the Legal Member has concluded that the application must be rejected under rule 8(1)(a).

## **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.

R O'Hare

16 February 2026

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Legal Member/Chair

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Date