



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/25/2743

Re: Property at 7 Maree Place, Kirkcaldy, Fife, KY2 6PP (“the Property”)

Parties:

Mr James Smith, 20 Laurel Crescent, Kirkcaldy, Fife, KY2 5ED (“the Applicant”)

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

Decision

The Legal Member determined there is good reason to believe that it would not be appropriate to accept this application received by it on 23 June 2025.

The Legal Member therefore rejects the application under Rule 8(1)(c) of the Rules.

Background

- 1 This is an application for an eviction order under Rule 66 of the Rules and section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The application was received by the Tribunal on 23 June 2025.
- 2 In terms of Rule 5(2) of the Rules, a Legal Member of the Tribunal with delegated powers from the Chamber President reviewed the application to assess whether it had been lodged in the required manner.
- 3 Following said review the Tribunal wrote to the Applicant by email in the following terms:-

“A legal member of the Tribunal has reviewed your application. Before a decision can be made on whether the application can proceed to a tribunal for full determination we require you to provide the following information:-

- 1 *The tenancy agreement states that the tenancy commenced on “June 2017” and ended on “June 2020”. Please confirm the full date upon which the tenancy commenced. The notice to quit indicates this may have been 1 June 2017. We require this in order to consider whether the notice to quit terminates the tenancy at the ish date and is therefore valid.*
- 2 *Please provide a copy of the Form AT5 that was given to the tenant prior to signing the tenancy agreement.*
- 3 *Please provide a copy of the section 11 notice and proof that this has been sent to the local authority.*

You may wish to seek advice from a solicitor or advice agency prior to providing your response. The Tribunal cannot provide you with advice as an independent judicial body but there are details of advice agencies available under the Useful Links section of our website.

Please reply to this office with the necessary information by 6 August 2025. If we do not hear from you within this time, the President may decide to reject the application.”

- 4 On 4 August 2025 the Tribunal received emails from the Applicant in response to the Tribunal’s request for information. The Applicant provided a copy of a section 11 notice and proof that this had been sent to the local authority. He explained that the tenancy commenced on 1 June 2017. His late brother had dealt with the paperwork and the Applicant had been unable to locate the Form AT5 however he believed the tenant would have a copy of this.
- 5 On 25 August 2025 the Tribunal wrote to the Applicant by email in the following terms:-

“A Legal Member of the Tribunal with delegated powers of the President has considered your application.

1. *The Notice to quit appears to be invalid as the date specified in the Notice does not coincide with an ish date. Please clarify why you consider the application can proceed or confirm if it is to be withdrawn.*
2. *If the application is to proceed you should note that the application cannot succeed unless you can demonstrate that a valid AT5 notice was given to the Respondent.*

You may wish to take legal advice before you respond.

Please reply to this office with the necessary information by 8 September 2025. If we do not hear from you within this time, the President may decide to reject the application.”

6 The Tribunal received no response from the Applicant. On 8 October 2025 the Tribunal sent a reminder to the Applicant by email requesting a response no later than 22 October 2025.

7 On 9 October 2025 the Tribunal received an email from the Applicant which stated *“The reason the “Notice to quit” document does not coincide with an ish date is because the tenancy duration continued on a monthly basis after June 2020 until 18/06/25. The extension to the tenancy duration is permissible by the terms outlined in section 4 of the signed Tenancy agreement.”* The Applicant also attached a statement from the tenant confirming receipt of the Form AT5.

8 On 7 November 2025 the Tribunal wrote to the Applicant in the following terms:-

“You have confirmed that the tenancy commenced on 1 June 2017. Clause 4 of the tenancy agreement states that after the initial term, the tenancy will continue on a monthly basis.

The tenancy has therefore rolled over every 1st of the month. The ish date of the tenancy is the 1st of each month.

The notice to quit terminates the tenancy as at 18th June 2025. The notice to quit would therefore be invalid as it does not terminate the tenancy at an ish date. If the application is to proceed to a case management discussion, it is highly likely that the application would be dismissed on that basis.

Please confirm if you wish the matter to proceed to a case management discussion, in which case you would have to make legal submissions to persuade the tribunal that the 18th June is a valid ish date. Alternatively, please confirm if you wish to withdraw the application and re-submit once a correct notice to quit has been given to the tenant.

We would strongly suggest you obtain legal advice on this matter. Residential tenancies can be complex and the Tribunal cannot provide you with advice as an independent judicial body. There are however details of advice agencies under the Useful Links section of our website.

Please reply to this office with the necessary information by 21 November 2025. If we do not hear from you within this time, the President may decide to reject the application.”

9 The Applicant did not respond. On 10 December 2025 the Tribunal sent a reminder to the Applicant by email requesting a response by 24 December 2025, failing which the application may be rejected.

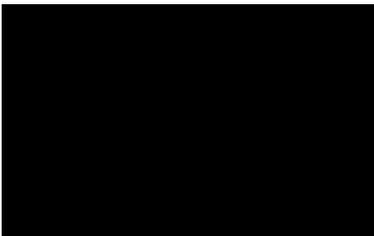
10 No response has been received from the Applicant as at the date of this decision.

Reasons for decision

- 11 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*”.
- 12 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 Tribunal has identified fundamental defects with the application, The Applicant has failed to establish how these can be overcome. He has failed to confirm how he wishes to proceed. Given the Applicant’s lack of response to the Tribunal’s emails of 7 November and 10 December 2025, the Legal Member can reasonably assume that he has decided not to proceed with the application.
- 13 The Legal Member has therefore concluded that the Applicant’s lack of response 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.



Legal Member/Chair

28 January 2026

Date