



**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/EV/26/1127

**Parties**

**Mr Mrs Brian MacIannan (Applicant)**

**Homes For You (Applicant's Representative)**

**21 Broadside Court, Denny, FK6 5GZ (House)**

1. On 11.3.26 the First Tier Tribunal for Scotland Housing and Property Chamber (FTT) received the application under rule 66 of the Procedure Rules from the Applicant. The application was accompanied by an AT5 document dated 15.8.19, a tenancy agreement commencing 17.8.19, a document headed Notice to Quit dated 10.12.25 to the date of 16.2.26, a S 33 document dated 10.12.25 to a date of 16.2.26 and an execution of service confirming service on 11.12.25, a S 11 notice highlighting as the relevant legislation S 19 of the Housing (Scotland) Act 1988.
2. The documents contained in the case file are referred to for their terms and held to be incorporated herein.

## DECISION

3. 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."*

4. 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.

## REASONS FOR DECISION

### Application for order for possession upon termination of a short assured tenancy

66. Where a landlord makes an application under section 33 (recovery of possession on termination of a short assured tenancy) of the 1988 Act, the application must—

(a)state—

- (i)the name, address and registration number (if any) of the landlord;
- (ii)the name, address and profession of any representative of the landlord; and
- (iii)the name and address of the tenant;

(b)be accompanied by a copy of—

- (i)the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the landlord can give;
- (ii)the notice by landlord that the tenancy is a short assured tenancy; and
- (iii)the notice given to the tenant under section 33(1)(d) of the 1988 Act;
- (iv)the notice to quit served by the landlord on the tenant;
- (v)a copy of the notice by the landlord given to the local authority under section 11 of the Homelessness (Scotland) Act 2003 (if applicable), and
- (vi)a copy of Form BB (notice to the occupier) under schedule 6 of the Conveyancing and Feudal Reform (Scotland) Act 1970 (if applicable), and

(c)be signed and dated by the landlord or a representative of the landlord.

1. S 12 (1A) of the Housing (Scotland) Act 1988 states:” A tenancy cannot be an assured tenancy if it is granted on or after 1 December 2017”. The tenancy was entered into on 17.8.19, which is a date after 1.12.2017. This was documented in the tenancy agreement, the AT5 document and the S 11 notice.
2. The decision is made on the basis that the application was made under rule 66. Rule 66 relates to applications based on S 33 of the Housing (Scotland) Act 1988. The Private Housing (Tenancies) (Scotland) Act 2016 came into force on 1.12.2017 and any new private residential tenancy in Scotland which was entered into after that date is automatically a Private Residential Tenancy and not a Short Assured Tenancy under the Housing (Scotland) Act 1988. The tenancy thus is a Private Residential Tenancy and not an Assured Tenancy, to which the eviction process under the Housing (Scotland) Act 1988 could apply.
3. It would not be appropriate for the Tribunal to accept the application which is made under the wrong legislation and rule.
4. The applicants can of course make a fresh application to the FTT under the correct rule for a Private Residential Tenancy and accompanied by the correct documentation. Any future application should also stated the names of the joint applicants in full.

## **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**

Petra Hennig McFatridge

Legal Member

13 April 2026