



**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/25/4796

Parties

Mrs Mhairi Thompson Hall (Applicant)

14 North Street, Montrose, Angus, DD10 8NG (House)

1. On 6.11.2025 the First-tier Tribunal (FTT) received an application under Rule 109 of the Procedural Rules, being an application for an eviction order under S 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (the Act). This was made on ground 1. The application was accompanied by a document described as a Notice to Leave issued on 2.6.2025 as well as the even pages of a tenancy agreement.
2. On 25.11.2025 the FTT wrote to the in the following terms: You have applied under Ground 1 of Schedule 3 to the Private Housing (Tenancies) Act 2016 and Rule 109 of the Tribunal Rules, both of which set out the statutory procedure which you must follow. 1. Rule 109 requires you to submit evidence of the Ground. The wording of Schedule 3 in the Act suggests a copy of an instruction to a solicitor or an estate agent or a copy of a Home Report

will suffice. Please submit the appropriate evidence. 2. Please provide a full copy of the tenancy agreement. The copy which you submitted begins at Section 4. 3. Please provide evidence of service of a section 11 notice on the local authority. 4. A Notice to Leave is a statutory notice in a prescribed form. The document you have lodged which is headed "Notice to Leave" does not conform to the statutory form of a Notice to Leave as required by the Private Residential Tenancies (Prescribed Notices and Forms) (Scotland) Regulations. On that basis, this does not appear to be a competent Notice to Leave. You have also not provided any evidence of service. Please explain the legal basis upon which you consider that this document can be deemed to be a competent Notice to Leave ? If you have not followed the correct procedure, you should consider withdrawing this application and starting afresh.

3. On 12.2.2026 after further requests for information by the FTT the applicant provided a fresh Notice to Leave in the correct format. The notice was dated 7.2.2026 and the date when proceedings could first be raised was given as 4.5.2026. The FTT wrote to the applicant on 19.2.2026 advising: You lodged an application form E dated 29 October 2025 along with a document headed "notice to leave" dated 2 June 2025 which did not comply with the statutory format. The Tribunal raised a number of queries regarding the application. You have now submitted a copy notice to leave dated 5 February 2026 which does not expire until 4 May 2026. A fresh application cannot be made until after the date on which the notice to leave expires. Please therefore confirm that the application with reference EV/25/4796 is withdrawn. A fresh application can be submitted after 4 May 2026.
4. No further reply was received. The documents referred to above are referred to for their terms and held to be incorporated herein.

DECISION

5. 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."

6. 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

7. Applicable legislation:

Rule 109 (b) of the Procedural Rules an application for an eviction order under S 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (the 2016 Act) has to be accompanied by:

- i. evidence showing that the eviction ground or grounds has been met
- ii. a copy of the notice to leave given to the tenant as required under section 52(3) of the 2016 Act
- iii. a copy of the notice given to the local authority as required under section 56 (1) of the 2016 Act

S 54 of the Private Housing (Tenancies) (Scotland) Act 2016 Restriction on applying during the notice period

(1)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 until the expiry of the relevant period in relation to that notice.

8. The Notice to Leave provided states as the date proceedings can first be raised 4.5.2026. The application was lodged on 6.11.2025 and the application is thus premature. No representations in terms of S 52(4) of the Act were received.
9. It would not be appropriate for the Tribunal to accept the application at this stage as it is premature. The application is thus rejected. This rejection decision does not prevent a new application to be raised once the Notice to Leave date stated in part 4 of the document has been reached. Any such application would have to be made in accordance with the requirements under the applicable rule stated in the Rules of Procedure.

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
1 April 2026