



**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/25/5171

Parties

Mr Robert Jason Clark (Applicant)

41 Craig Drive, Crosshouse, KA2 0JA (House)

1. On 28.11.2025 the First Tier Tribunal for Scotland Housing and Property Chamber (FTT) received the application, which was made under rule 109 of the Procedure Rules and S 51 of the Private Housing (Tenancies) (Scotland) Act 2016 and stated as the grounds applicable that the landlord intends to live in the property.
2. No S 11 notice was submitted with the application. No tenancy agreement was provided. No Notice to Leave was provided.
3. No other evidence apart from the statement in the application was provided in support of the ground stated.
4. The FTT identified from the title deeds that the Applicant was not the owner of the property.

5. In letters dated 19.12.2025 and 23.1.2026 the FTT requested further information from the Applicant. He replied on 6.1.2026 essentially seeking legal advice from the FTT, which the FTT cannot provide. On 23.1.2026 he was asked to confirm if he wished to proceed with the application and encouraged to seek legal advice.
6. The period for a reply to the second request for further information had expired on 19.2.2026. By 20.3.2026 no reply had been received to the second request and no further documents had been lodged by the Applicant. The document lodged by the applicant and the letters requesting further information from the FTT are referred to for their terms and held to be incorporated herein.

DECISION

7. 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."

- 8. 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

1. The lodging requirements for an application under rule 109 include under (b) the requirement to lodge (i) evidence that the ground or grounds has been met, (ii) a copy of the notice to leave given to the tenant as required by S 52 (3) of the 2016 Act; and (iii) a copy of the notice given to the local authority under S 11 of the Homelessness (Scotland) Act 2003 as required in s 56 of the 2016 Act.
2. The Applicant has not provided any information to confirm that the tenancy in question is a Private Residential Tenancy in terms of the Private Housing (Scotland) Act 2016. They have provided no information about the nature and the terms of the tenancy. The Applicant not provided any evidence that one of the relevant grounds under the 2016 Act has been met other than to state that the Applicant, who does not own the property, wishes to move into it. The Applicant has not provided a copy of the Notice to Leave and only provided a signed statement from a witness that he a given a "Notice of Request" to the tenant without any information as to what this contained. S 52 (3) requires an application for eviction to be accompanied by a Notice to Leave. The Applicant has not provided a S 11 notice and proof of this having been given to the local authority. S 56 (1) of the 2016 Act confirms that an eviction application may not be made without this.
3. The Applicant had been advised of the issue regarding ownership and asked to clarify if they wish to proceed with the application. However, no further reply was received, no tenancy agreement was lodged, no Notice to Leave copy was provided and no s 11 notice was lodged. It would not be appropriate for the Tribunal to accept an application which is incomplete and does not meet the lodging requirements.
4. The application is thus rejected.

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

Petra Hennig-McFatridge

Legal Member
20 March 2026