



**DECISION AND STATEMENT OF REASONS OF JOSEPHINE BONNAR,
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 Procedure Rules")**

Case References: FTS/HPC/EV/26/1485 and CV/26/1488

290 Old Rutherglen Road, Glasgow ("the Property")

Rinoza Bafiq, 41 Alexander Crescent, Glasgow ("the Applicant")

1. The Applicant lodged applications for eviction and payment orders in terms of Rules 109 and 111 of the Procedure Rules and Sections 51 and 71 of the Private Housing Tenancies (Scotland) Act 2016 ("the 2016 Act"). The Applicant stated that there is no tenancy in relation to the property and that the Respondent occupiers have never paid rent. She also stated that they have been occupying the property since July 2025, without consent. The Applicant further explained that she had raised proceedings against the four occupiers at Glasgow Sheriff Court. As three of the occupiers did not defend the proceedings, decrees were granted against them. The fourth occupier had defended the proceedings. After sundry procedure, the Sheriff issued an interlocutor which "appoints both parties to refer the cause" to the Tribunal and sisted the Sheriff Court action until a decision had been issued by the Tribunal. A copy of the interlocutor dated 1 April 2026 was submitted.
2. The Tribunal issued a request for further information and documents in terms of Rule 5(3) of the Procedure Rules. It was noted that the Tribunal does not have jurisdiction to deal with unlawful occupiers and that the Tribunal could only consider the application if the Respondent occupies the property in terms of a private residential tenancy under the 2016 Act. The Legal Member also asked the Applicant to clarify why the Sheriff had not made a decision on the application as there is no procedure for the Tribunal to deal with a request by an owner/landlord to determine if a PRT exists. In response the Applicant confirmed that she is not a landlord, that there is no tenancy and that she had not served a Notice to leave on the Respondent.

Decision

3. After consideration of the application the Legal Member considers 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.”

Reasons for decision

4. The Legal Member is satisfied that the applications cannot be accepted for the following reasons: -
 - (a) The Tribunal's jurisdiction is restricted. The Tribunal can only entertain applications by landlords who are seeking orders for eviction and payment in relation to tenancies under the Rent (Scotland) Act 1984, the Housing (Scotland) Act 1988 and the Private Housing Tenancies (Scotland) Act 2016. The Applicant has stated that the occupier of the property has been in occupation since July 2025. If this is the case, the Tribunal can only entertain the applications if there is a PRT under the 2016 Act (Sections 51 and 71).
 - (b) There is no process for a case to be remitted by the Sheriff Court to the FTT or for parties to a case (either jointly or separately) to refer a matter to the Tribunal for a determination that a tenancy exists or does not exist. A tenant may apply, under Section 14 of the 2016 Act, to have a tenancy agreement drawn up if the tenant has not been provided with an agreement or certain prescribed information. However, that is a separate process and cannot be initiated by a landlord.
 - (c) The Applicant has failed to provide certain documents with her applications. These include a Notice to leave, with evidence of service, and a section 11 notice with evidence it was sent to the Council. In terms of both legislation, and Procedure Rules, these are mandatory requirements and the eviction application cannot be accepted without them. The Applicant has confirmed that she has not issued a notice to leave to the occupier. This is understandable. To do so might lead to an inference that she accepts that a tenancy is in place, which is not the case.
 - (d) If the Sheriff determines that the occupier is a tenant and not an unlawful occupier, the Applicant will be able to serve notice and make an application to the FTT. However, she cannot do so unless she accepts that there is a tenancy or the Sheriff has issued a decision that this is the case.
5. Having regard to all the circumstances, the Legal Member is satisfied that it would not be appropriate to accept the applications. Based on the documents and submissions, the Legal Member determines that the Tribunal does not have jurisdiction to consider these applications.

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.

J. Bonnar

13 May 2026