



**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/PR/26/0800

Parties

Ms Caitlyn Rothar (Applicant)

Mrs Donna Rothar (Applicant's Representative)

69 Muirkirk Drive, Glasgow, G13 1BZ (House)

1. On 17.2.2026 the First –tier Tribunal for Scotland, Housing and Property Chamber (the FTT) received the application by the Applicant for a wrongful termination order. The application was made under Rule 110 of the Rules of Procedure.
2. On 14.3.2026 the FTT wrote to the applicant's representative in the following terms:
A legal member of the Tribunal has reviewed your application to assess whether it complies with the mandatory requirements for an application under rule 110 and has determined that the following information is required before your application can progress further:- 1 An application under rule 110 should be made with a Form G application form. Please resubmit your application in the correct form. 2 Please provide a written mandate from the applicant authorising you to represent her in the application. 3 You have stated that a wrongful

termination order is sought on the basis that eviction was unreasonable. That is not the legal test for a wrongful termination order. In terms of section 58(3) of the Private Housing (Tenancies) (Scotland) Act 2016, the Tribunal may only make a wrongful termination order if it finds that the tenant was misled into ceasing to occupy the let property by the landlord. It does not appear from the terms of your application that the tenant was misled. If she believed that eviction was unreasonable, her remedy would have been to oppose any subsequent application for an eviction order. Please explain why you believe the applicant was misled into ceasing to occupy the property. Upon receipt of your response we may seek further information from you before a decision is made on whether the application can proceed to a Tribunal for full determination.

3. On 21.3.2026 the following reply was received: The applicant ceased occupying the property at 69 Muirkirk Drive, Glasgow after receiving a Notice to Leave from the landlord alleging that she had breached the tenancy agreement. The Notice to Leave and accompanying communications from the landlord stated that the tenancy was being terminated due to alleged breaches of the tenancy agreement. These alleged breaches included turning off the heating while away during the Christmas holiday, the use of a candle warmer despite a clause relating to candles or naked flames, and the use of painter's tape to hang drawings on the wall. Prior to the Christmas holiday period, the landlord sent an email to the tenant dated 13 November 2025 asking about her plans for the Christmas break and stating that "if it gets cold I will put some heating on." This email is already included in the evidence previously submitted with the application. Based on this communication, the tenant understood that the landlord was aware the property would be vacant during the holiday period and had indicated that he would manage the heating if necessary. The tenant was therefore surprised when the landlord later relied on the heating being turned off as one of the alleged breaches of the tenancy agreement. When the Notice to Leave was issued citing these alleged breaches, the tenant reasonably believed that the landlord had the legal authority to require her to vacate the property. At the time the notice was received, the tenant was a 22-year-old international student from the United States studying veterinary medicine in Glasgow and living alone in a foreign country. She had no prior experience with Scottish tenancy law and did not understand that a Notice to Leave does not itself require a tenant to vacate the property unless and until an eviction order is granted by the First-tier Tribunal. Because the Notice to Leave stated that the tenancy was being terminated due to alleged breaches of the tenancy agreement, and because of the landlord's communications asserting those breaches, the tenant believed that she had no option but to leave the property within the notice period. The tenant therefore vacated the property in compliance with the Notice to Leave rather than remaining in the property and requiring the landlord to obtain an eviction order from the Tribunal. The tenant later became aware that under Scottish tenancy law she was entitled to remain in the property unless and until the landlord obtained an eviction order from the Tribunal. Had the tenant understood this at the time, she would have sought advice and exercised her right to remain in the property. For these reasons, the applicant respectfully submits that the landlord's communications and the manner in which

the Notice to Leave was presented had the effect of misleading the tenant into ceasing to occupy the property, and requests that the Tribunal consider whether a wrongful termination order should be made under section 58 of the Private Housing (Tenancies) (Scotland) Act 2016.

4. All documents are referred to for their terms and held to be incorporated herein.

B DECISION

1. 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."

2. 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.

C RELEVANT LEGISLATION

The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017

110. Where a former tenant makes an application under section 57(2) (wrongful termination by eviction order) or section 58(2) (wrongful termination without eviction order) of the 2016 Act, the application must—

(a)state—

(i)the name and address of the former tenant;

(ii)the name, address and profession of any representative of the former tenant; and

(iii)the name, address and registration number (if any) of the former landlord;

(b)be accompanied by evidence showing that the tenancy was unlawfully terminated; and

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

D REASONS FOR DECISION

1. Rule 110 (b) requires as part of the documentation to be submitted with a valid application under said rule that the application must be “be accompanied by evidence showing that the tenancy was unlawfully terminated”.
2. The application contained various exchanges of communication between the parties and also in particular an email from the applicant’s representative dated 26.1.2026 in which they state: *We also want to be transparent that we are now fully aware of our rights, including the option to formally dispute the eviction and remain in the unit while the matter is addressed. Our preference, however, is not to escalate the situation, but to resolve this cooperatively and respectfully.*
3. In the reply to the request for further information the representative states: *At the time the notice was received, the tenant was a 22-year-old international student from the United States studying veterinary medicine in Glasgow and living alone in a foreign country. She had no prior experience with Scottish tenancy law and did not understand that a Notice to Leave does not itself require a tenant to vacate the property unless and until an eviction order is granted by the First-tier Tribunal. Because the Notice to Leave stated that the tenancy was being terminated due to alleged breaches of the tenancy agreement, and because of the landlord’s communications asserting those breaches, the tenant believed that she had no option but to leave the property within the notice period. The tenant therefore vacated the property in compliance with the Notice to Leave rather than remaining in the property and requiring the landlord to obtain an eviction order from the Tribunal. The tenant later became*

aware that under Scottish tenancy law she was entitled to remain in the property unless and until the landlord obtained an eviction order from the Tribunal. Had the tenant understood this at the time, she would have sought advice and exercised her right to remain in the property. For these reasons, the applicant respectfully submits that the landlord's communications and the manner in which the Notice to Leave was presented had the effect of misleading the tenant into ceasing to occupy the property, and requests that the Tribunal consider whether a wrongful termination order should be made under section 58 of the Private Housing (Tenancies) (Scotland) Act 2016.

4. It is clear from the email of 26.1.2026 that the applicant's family had taken advice and that it was known to them that the applicant could have contested any eviction action but had decided to leave the property. It was specifically acknowledged in the email of 26.1.2026 that the option "to formally dispute the eviction and remain in the unit while the matter is addressed" was known at the time and not only discovered after the applicant had moved out. The applicant and her representative did not provide any evidence, as required in rule 110 (b), that the tenancy was unlawfully terminated. A copy of a Notice to Leave together with correspondence prior to the date of the tenancy end had been submitted and no evidence produced that the process had not been correctly followed or that the "tenant was misled into ceasing to occupy the let property by the person who was the landlord under the tenancy immediately before it was brought to an end" as would be required in terms of S 58 (3) of the Private Housing (Tenancies) (Scotland) Act 2016. Such evidence is a requirement for a valid and complete application under rule 110. The application remains incomplete to date.
5. As rule 110 (b) has not been complied with, the application is 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 procedure can be forwarded to you on request.

Petra Hennig McFatridge

Legal Member

18 May 2026