



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 8(1)(c) of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/25/4606

Re: Property at 23 Posthill, Sauchie, Alloa, FK10 3NT (“the Property”)

Parties:

Miss Tracey Cawdrey, 13 Cecil Road, Stretford, Manchester, M32 9BZ (“the Applicant”)

Tribunal Members: Ruth O’Hare, Legal Member with delegated powers from the Chamber President

Decision

The Legal Member determined that there is good reason to believe that it would not be appropriate to accept this application received by the Tribunal on 24 October 2025.

The Legal Member therefore rejects the application under Rule 8(1)(c) of the Rules.

Background

- 1 This is an application under section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”) and Rule 66 of the Rules. The Applicant sought an eviction order as the short assured tenancy between the parties had been terminated. The application was submitted on the Applicant’s behalf by their representative, O’Malley Property.
- 2 In terms of Rule 5(2) of the Rules, a Legal Member of the Tribunal with delegated powers from the Chamber President reviewed the application to assess whether it had been lodged in the required manner. Following said review the Tribunal wrote to the Applicant’s representative by email on 17 November 2025 in the following terms:-

“A legal member of the Tribunal has reviewed your application. Before a decision can be made on whether the application can be referred to a tribunal for full determination, we require you to provide the following information:-

- 1. Evidence that the notices were delivered to the tenant, e.g. postal receipt and tracking information or sheriff officers’ certificate*
- 2. Evidence that the section 11 notice was sent to the local authority, e.g. covering email or postal receipt.*
- 3. A written mandate from the applicant authorising you to represent them and be the sole contact for all correspondence from the Tribunal regarding this matter.*
- 4. Confirmation that the short assured tenancy is a sole tenancy with the respondent. We note there is a joint tenant named on the tenancy agreement, but he has not signed the tenancy agreement, nor did he appear to receive a form AT5.*

Please reply to this office with the necessary information by 1 December 2025. If we do not hear from you within this time, the President may decide to reject the application.”

- 3 On 27 November 2025 the Tribunal received an email from the Applicant’s representative with proof of delivery for the notice to quit and section 33 notice, and the section 11 notice.
- 4 On 23 December 2025 the Tribunal wrote again to the Applicant’s representative by email in the following terms:-

“Your email of 27 November 2025 is acknowledged and has been considered. Your email fails to fully address the issues which have been raised in the tribunal’s previous correspondence to you.

Please provide the mandate requested confirming you are authorised to act.

You were asked to provide proof of service of the various notices upon the tenant. You have provided a screenshot apparently showing receipt of emails. Are you suggesting that email is an appropriate and valid method of service of notices required in receipt of short assured tenancies? Please provide appropriate legal authority for that proposition. We would refer you to section 54 of the Housing (Scotland) Act 1988.

You have not confirmed whether the tenancy is a sole tenancy or not. Please do so now.”

- 5 The Applicant’s representative responded by email dated 24 December 2025. They acknowledged the error in that the notice to quit and section 33 notice should have been sent by recorded delivery or sheriff officers. They confirmed

that the tenancy was a sole tenancy and provided a mandate from the Applicant.

- 6 On 27 January 2026 the Tribunal wrote to the Applicant's representative by email requesting confirmation as to whether they wished to withdraw the application given the potential error with the service of the notices, or whether they wished to proceed to a case management discussion where a tribunal would consider whether the notices had been validly served. The Applicant's representative was asked to provide a response no later than 10 February 2026 otherwise the application may be rejected.
- 7 The Tribunal received no response from the Applicant's representative. On 11 March 2026 the Tribunal wrote again to the Applicant's representative requesting a response to the Tribunal's email of 27 January 2026 by 1 April 2026 otherwise the Chamber President would have no option but to reject the application.
- 8 No response has been received from the Applicant's representative as at the date of this decision.

Reasons for decision

- 9 The Legal Member has determined that the application should be rejected in terms of Rule 8(1)(c) of the Rules, 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*".
- 10 The basis of the decision is the Applicant's failure to provide the information requested by the Tribunal under Rule 5(3) of the Rules. In particular, the Applicant's representative has been asked to confirm how they wish to proceed with the application considering the potential defect arising from the service of the statutory notices. The Applicant, via their representative, has been asked to provide this information on two occasions. They have been advised that their application may be rejected if they do not respond. They have therefore been given the opportunity to address the outstanding matters.
- 11 The Legal Member has therefore determined, based on the Applicant's failure to provide the information and cooperate with the Tribunal, that it would not be appropriate to accept the application. The application is therefore rejected under Rule 8(1)(c) of the Rules.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal 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.

Ruth O'Hare

29 May 2026

Legal Member/Chair

Date