



**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/26/0825

Parties

Mr James Baillie (Applicant)

Philpott Platt Niblett and Wight (Applicant's Representative)

3F Park Crescent, Dumbarton, G82 2BH (House)

PROCEDURAL BACKGROUND:

1. The 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) was received by the Tribunal on 18.2.2026. The application was dated 16.2.2026.
2. The following documents were ultimately lodged in connection with the application:- S 11 Notice to Local Authority and letter sending same on 10.6.2025, Notice to Leave dated 16.5.2025 with the date in part 4 stated as 14.8.2025 and proof of posting on 16.5.2025, Tenancy Agreement.

3. On 14.3.2026 the FTT wrote to the applicant's agents in the following terms: The legal member has identified a potential defect with your application in that you have produced a notice to leave which states that an application will not be made to the Tribunal before 14 August 2025. In terms of section 55 of the Private Housing (Tenancies) (Scotland) Act 2016, a landlord cannot rely upon a notice to leave more than six months after the notice period has expired. The deadline for making an application to the Tribunal would therefore have been 14 February 2026. The application is dated 16 February 2026 and was received by the Tribunal on 18 February 2026. Please withdraw the application or produce a valid notice to leave that has been given to the tenant prior to submitting the application together with evidence of the method of delivery. If the application is to proceed, the following information is also required:-
 - 1 There is a joint landlord named on the tenancy agreement, and on the title deeds for the property. Please confirm if she should be added as a joint applicant and provide her contact details. Alternatively please provide her written consent to the application proceeding in the sole name of the applicant.
 - 2 The section 11 notice must be sent to the local authority when the application is submitted to the tribunal. The section 11 notice you have provided appears to have been sent on 10 June 2025. It is also incomplete in that it does not identify the relevant legislation. Please resend the section 11 notice and provide a copy of the amended notice, along with proof of delivery.
 - 2 3 An application under rule 109 must be accompanied by evidence to support the eviction grounds. For ground 1, evidence may include a recent home report or a letter of engagement with a solicitor or estate agent. For ground 12, please submit a rent statement and evidence of the landlord's compliance with the rent arrears pre-action protocol. 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. Please reply to this office with the necessary information by 28 March 2026. If we do not hear from you within this time, the President may decide to reject the application.
4. No reply was received. On 20.5.2026 the FTT again made the same request with a deadline of a further 14 days. No reply has been received to date.
5. The case documents and all correspondence in the case are referred to for their terms and held to be incorporated herein.

DECISION

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."

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:

Applicable Legislation:

55Restriction on applying 6 months after the notice period expires

(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 more than six months after the day on which the relevant period in relation to that notice expired.

(2)In subsection (1), “the relevant period” has the meaning given in section 54(2).

(3)The reference in subsection (1) to using a copy of a notice to leave in making an application means using it to satisfy the requirement under section 52(3).

Findings and Reasons:

REASONS FOR DECISION

1. In terms of S 52 (3) of the Act and rule 109 (b) (ii) of the Rules of Procedure an application must be accompanied by a copy of the Notice to Leave. S 55 states that for the purpose of fulfilling the requirement in S 52 (3) a Notice to Leave cannot be used more than six months after the day on which the relevant period as set out in S 54 (2) expired.
2. In this case the Notice to Leave was dated 16.5.2025 with a notice period in terms of S 54 (2) (b) (i) of 84 days. The Notice to Leave was sent to the Respondent on 16.5.2025 and in terms of S 62 (5) was thus deemed to have been received 48 hours later. In terms of S 54 (2)(a) and (b) the 84 day notice period thus expired on 10.8.2025. In terms of S 55, the 6 months period during which the Notice to Leave could be used as the supporting evidence for an application under S 51 thus ended on 10.2.2026. The application was not made until after 16.2.2026 as the application was dated 16.2.2026 and received by the FTT on 18.2.2026. The application was thus made later than 6 months after the day on which the relevant period in relation to the notice had expired and the Notice to Leave could then no longer be used as a Notice to Leave to fulfill the requirement of S 52 (3).
3. It would not be appropriate for the Tribunal to accept an application based on a Notice to Leave which had expired in terms of S 55, which thus does not meet the lodging requirement of rule 109 (b) (ii) of the Rules of Procedure and the requirement for a valid application in terms of S 52 (3) of the Act.
4. 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

1 July 2026