



**DECISION AND STATEMENT OF REASONS OF MARTIN J. MCALLISTER,
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 Rules")**

in connection with

Tomvale, Tom of Cluny, Aberfeldy, PH15 2JT ("the Property")

Case Reference: FTS/HPC/RP/26/1282

Mark McNally- Johnston ("the Applicant")

Redacted ("the Respondent")

1. The Applicant applied to the Tribunal on 19 March 2026 in terms of Section 22 (1) of the Housing (Scotland) Act 2006.
2. The application was about the alleged failure of the Respondent to maintain the Property to the repairing standard.
3. On 20 March 2026, the Applicant was asked to provide further information. They were asked to provide evidence that the Respondent had been notified that it was considered that the Property failed to meet the repairing standard. They were also asked to provide a copy of the tenancy agreement.
4. No response was received and a reminder was sent on 9 April 2026.
5. On 3 June 2026, the Applicant provided a copy of the tenancy agreement.
6. On 4 June 2026, the Applicant provided evidence of the notification which had been sent to the Respondent.
7. The Applicant advised that the tenancy terminated on 26 April 2026.

DECISION

8. The Legal Member considered the application in terms of Rule 5 of the Chamber Procedural Rules. Rule 5 provides: - (1) An application is held to have been made on the date that it is lodged if, on that date, it is lodged in the manner as set out in rules 43, 47 to 50, 55, 59, 61, 65 to 70, 72, 75 to 91, 93 to 95, 98 to 101, 103 or 105 to 111, as appropriate. (2) The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged in the required manner by assessing whether all mandatory requirements for lodgment have been met. (3) If it is determined that an application has not been lodged in the prescribed manner, the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, may request further documents and the application is to be held to be made on the date that the First-tier Tribunal receives the last of any outstanding documents necessary to meet the requirement manner for lodgment. “

9. **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

10. Section 22 (1) of the Housing (Scotland) Act 2006 states that:

“A tenant may apply to the First –tier Tribunal for determination of whether the landlord has failed to comply with the duty imposed by section 14 (1) (b).” The duty imposed by section 14 is for a landlord to ensure that the house meets the repairing standard at all times during the tenancy.

11. The statutory provision is clear. An application requires to be submitted by a tenant, not a former tenant.

12. The basis of the decision is that the Applicant has failed to comply with Rules 48 (1)(b) (i) and 48 (1)(b) (ii) of the Tribunal Rules. The tenancy agreement and proof of notification were not provided until after the tenancy had terminated. The Applicant was no longer a tenant when a complete and valid application was submitted to the Tribunal.

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.