



Decision and statement of Reasons of the First Tier Tribunal (Housing and Property Chamber)

Under Rule 8 of the First Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ‘the Rules’.

In respect of application by Mr Euan Smith of J Smith of Cairndinnis Ltd in terms of Rule 66 of the Rules.

Case reference FTS/HPC/EV/26/2697

At Glasgow on the 20 August 2026, Lesley Anne Ward, legal member of the First –Tier Tribunal ‘the Tribunal’ with delegated powers of the Chamber President, rejected the above application in terms of Rule 8(1)(a) and (c) of the Rules.

1. This is an application by Mr Euan Smith of J Smith Cairndinnis Ltd to recover possession of the property at Berran Cairndinnis Haddington EH41 1PX on the expiry of a short assured tenancy, in terms of Rule 66 of the Rules. The application was made on his behalf by Miss Lauren Clark of FBR Seed Ltd on 20 June 2026.
2. The in-house convenor reviewed the application, and the Tribunal sent a request for further information on 7 July 2026 as follows:

Please provide evidence of the method of service for the notice to quit and section 33 notice.

It appears that the notice to quit may be invalid. A notice to quit must terminate the tenancy at an “ish” date, i.e. the end of the current tenancy term. The initial term of the tenancy was 16 December 2016 to 17 June 2017. Thereafter, the tenancy has continued monthly. It appears therefore that the ish date is the 17th of each month. Please explain why you believe 30 April 2026 is a valid ish date. You may wish to seek independent legal advice if you require guidance with your response. The Tribunal cannot provide advice as an independent judicial body but there are details of advice agencies available under the Useful Links section of our website.

3. The applicant’s representative has not responded.
4. This is an application for eviction on the basis of the expiry of the tenancy agreement in terms of rule 66. There is a fundamental issue with the notice to quit as set out in the Tribunal’s email of 7 July 2026. The notice to quit is

invalid. It states the tenant has to move out by 30 April 2026. This does not tie in with the ish date of the 17th of the month agreed in the short assured tenancy agreement. Without a valid notice to quit an application in terms of rule 66 cannot succeed as the tenancy has not been brought to an end.

5. Rule 8(1)(a) of the Rules allows an application to be **rejected** by the Chamber President if "*they consider that an application is vexatious or frivolous*". "Frivolous" in the context of legal proceedings is defined by Lord Justice Bingham in R-v- North West Suffolk (Mildenhall)Magistrates Court (1998) Env.L.R.9. At page 16 he states:- "What the expression means in this context is, in my view, that the court considers the application to be futile, misconceived, hopeless or academic".
6. I consider that this application is hopeless as the notice to quit is invalid and the tenancy has not been brought to an end.
7. Further in terms of rule 8(1)(c) of the Rules the Chamber President must reject an application if they have good reason to believe it would not be appropriate to accept it. The applicant's representative has failed to respond to the Tribunal's request for further information of 7 July 2026 and has failed to cooperate with the Tribunal in the execution of its duties. It would therefore not be appropriate to accept it.
8. For the foregoing reasons the application is rejected.

NOTE: What you should do now.

If you accept this decision there is no need to reply.

If you disagree with this decision you should note the following:

An applicant aggrieved by this 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 seek permission to appeal within 30 days of the date the decision was sent them. Information about the appeal procedure can be forwarded on request.

L Ward

Lesley Anne Ward

Legal Member

