

Housing and Property Chamber
First-tier Tribunal for Scotland



**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/26/1254

Parties

Mr Keith Robertson, Mrs June Robertson (Applicant)

44 Allan Park, Hill of Beath, Fife, KY4 8EA (House)

1. On 18.3.2026 the First –tier Tribunal for Scotland, Housing and Property Chamber (the FTT) received the application from the under Rule 109 of the Rules of Procedure. The application was accompanied by a Notice to Leave dated 29.5.2025 with the date as to when proceedings could be raised stated as 25.8.2025 and a tenancy agreement commencing 1.9.2019.
2. The FTT wrote to the Appellant on 25.4.2026 and 8.6.2026 asking for further information. In the latter communication the FTT stated: Your further information has been assessed by a Legal Member of the Tribunal with the delegated authority of the Chamber President. The Legal Member has stated the following: • The notice to leave would appear to be invalid as the application has been raised more than six months after the date on which the relevant period in relation to that notice expired. Please confirm that you are withdrawing the application. • You should be aware if making another application that, as previously stated, you must provide proper evidence of intention to sell such as a contract with a selling agent or a recent home report. • You must, if making another application, provide a tracking report from Royal Mail together with a posting receipt, in respect of the notice to leave. Please reply to this

office with the necessary information by 22 June 2026. If we do not hear from you within this time, the President may decide to reject the application.

3. No reply has been received.
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

Application for an eviction order

109. Where a landlord makes an application under section 51(1) (for an eviction order) of the 2016 Act, the application must—

(a)state—

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

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

(iii)the name and address of the tenant if known and

(iv)the ground or grounds for eviction;

(b)be accompanied by—

(i)evidence showing that the eviction ground or grounds has been met;

(ii)a copy of the notice to leave given to the tenant as required under section 52(3) of the 2016 Act; and

(iii)a copy of the notice given to the local authority as required under section 56(1) of the 2016 Act; and

(iv)a copy of Form BB (notice to the occupier) under schedule 6 of the Conveyancing and Feudal Reform (Scotland) Act 1970 (if applicable), and

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

Private Housing (Tenancies) (Scotland) Act 2016

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).

D REASONS FOR DECISION

1. It is a requirement for a valid application that the application is accompanied by a copy of the notice to leave given to the tenancy as required under S 52(3) of the 2016 Act. S 55 of the 2016 Act clearly sets out that a Notice to Leave can only be used as a Notice to Leave in terms of S 52 (3) of the said Act for six months after the day on which the relevant period in relation to that notice expired.
2. As the Notice to Leave lodged for this application was dated 29.5.2025 and the date when the Notice to Leave expired was 24.8.2025, the Notice to Leave could only be used for an application under Rule 109 until 24.2.2026. The application was made on 18.3.2026. At this stage the Notice to Leave could no longer be used. Thus the application was not accompanied by a Notice to Leave and in terms of Rule 109 (b) (ii) is incomplete. It would not be appropriate to accept an incomplete application. The Applicants had been advised of this and made no further representations.
3. The application thus has to be 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 McFatrige
Legal Member
18 August 2026