Housing and Property Chamber
First-tier Tribunal for Scotland

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/26/2311

Re: Property at 11 National Court, Methil, Fife, KY8 3HG ("the Property")

Parties:

A & J Developments, The White House, 26 West Wynd, Buckhaven, Fife, KY8 1AS ("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 21 May 2026.

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

Background

1 This is an application under rule 66 of the Rules and section 33 of the Housing (Scotland) Act 1988 ("the 1988 Act"). The Applicant sought an eviction order in relation to a short assured tenancy between the parties.

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 by email on 11 June 2026 requesting the following information:-

"1. The property appears to be owned by the applicant and Mr J M Stevenson. Please provide written consent from the joint owner confirming that the applicant was authorised by to act as the sole landlord and to raise these proceeding in their sole name. Please also advise if the applicant is correctly identified in the application as the application seems to be made in the name of a company which is not stated on the title deeds.

2. Please confirm which documents were posted under the track and trace postal slip.

3. You made the application under rule 66. Rule 66 requires you to produce the AT5 notice, which is the document issued to the tenant advising that the tenancy is a Short Assured Tenancy. This was not included with the application. Please provide this now.

4. The S 11 notice refers to a Scottish Secure tenancy under the Housing (Scotland) Act 2001, not to proceedings under the Housing (Scotland) Act 1988. Please amend the S 11 notice and provide the updated notice with evidence that this was given to the local authority.

5. You stated on the application that grounds 14, 15 and 16 are relied on. An application under S 33 does not require grounds but relates solely to the nature of the tenancy. If you have made the application under the wrong rule and wish to rely on the grounds as stated above, please amend the application accordingly from rule 66 to rule 65 and provide the necessary evidence for the grounds you wish to rely on.

Please provide the information no later than 25 June 2026. Upon receipt of the information a Legal Member will consider your response and may seek further information from you before a decision is made on whether your application can proceed. In the absence of a response your application may be rejected without further notice."

3 On 11 June 2026 the Applicant provided a response to the Tribunal's request for information which included written consent from the joint owner, a postal receipt for the section 11 notice, a document purporting to be the form AT5, the section 11 notice and confirmation that the application should proceed under rule 66, albeit the eviction grounds had been included as a safeguard.

4 On 2 July 2026 the Tribunal wrote to the Applicant requesting the following information:-

"1. Please amend the application to show the correct landlord. The landlord would be the property owner or someone authorised by the owner to act as landlord. You have not provided any documentation showing that the property was owned by the business or that the business was authorised to let out the property e.g via a formal lease.

2. You have not provided an AT5 form. This is a statutory form and would have to be given to the tenant when the tenancy was first entered into to make the tenancy a Short Assured Tenancy. Please provide this now or withdraw the application under S 33 as the tenancy would not be a Short Assured Tenancy if it was not entered into at the same time as serving an AT5 document on the tenant at the start of the tenancy. The form you sent to the tribunal was an AT6 form, which relates to applications regarding assured tenancies and rule 65

applications and has nothing to do with the AT5 form required to constitute a Short Assured Tenancy. You may wish to obtain legal advice on the matter.

3. If you wish to also apply on the other grounds you stated, please make a separate fresh application under the correct rule 65 for assured tenancy cases and provide all the necessary documentation for such an application . If you wish to amend the existing application to one under rule 65 you would have to change the application content accordingly. Please note that it is the responsibility of the applicant to provide the necessary documents for a valid application. You may wish to obtain legal advice on the matter.

Please provide the information no later than 16 July 2026. Upon receipt of the information a Legal Member will consider your response and may seek further information from you before a decision is made on whether your application can proceed. In the absence of a response your application may be rejected without further notice."

5 On 8 July 2026 the Applicant responded to the Tribunal with amended application forms and a form AT5.

6 On 6 August 2026 the Tribunal wrote again to the Applicant requesting the following information:-

"1. You have lodged an amended application under rule 65. Your previous application was under rule 66. Please clarify on which rule you rely.

2. You state that you have lodged "2 new forms". Only one was lodged under rule 65.

3. You were asked which documents were served and delivery tracked by royal mail. You have stated that the notices served were the notice to quit and the AT5. As the AT5 is dated 26 November 2017 please clarify whether you mean that it was the AT6 dated 20 January 2026 that served by royal mail.

4. The tenancy is for a period of 6 months commencing on 26 November 2017. The tenancy therefore came to an end on 26 May 2018 and will have continued by tacit relocation for further 6 month terms. The ish date in each year will have been 26 May and 26 November. The notice to quit seeks to terminate the tenancy on 26 March 2026. The notice to quit therefore appears to be invalid. In order to proceed under section 33 of the Housing (Scotland) Act 1988 and rule 66, a valid notice to quit requires to be provided.

5. In terms of section 18 of the 1988 Act the Tribunal shall not make an order for possession of a house let on an assured tenancy unless the terms of the tenancy make provision for it to be brought to an end on the ground in question. Reference is made to the case of Royal Bank v Boyle 1999 Hous LR 43. You should consider whether section 29 of the tenancy agreement is sufficient.

It is suggested that you take legal advice.

Please reply to this office with the necessary information by 20 August 2026. If we do not hear from you within this time, the President may decide to reject the application."

7 The Applicant did not respond. On 14 September 2026 the Tribunal wrote again to the Applicant requesting they provide the information no later than 28 September 2026 otherwise the application would likely be rejected.

8 No response has been received from the Applicant 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 latterly respond to the Tribunal's requests for information. The application in its current form does not meet the mandatory requirements for an application under rule 66. Furthermore, the Tribunal has identified a potential defect with the notice to quit which the Applicant has failed to address. The Applicant has been advised that the application may be rejected if they do not respond. Their lack of response to the Tribunal's most recent request and subsequent reminder has led the Legal Member to reasonably assume that they no longer wish to proceed with the application.

11 The Legal Member has therefore determined that, based on the Applicant's failure to respond and cooperate with the Tribunal, there is good reason to believe it would not be appropriate to accept the application.

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

10 November 2026

Legal Member/Chair **Date**