



**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/22/1275

**Parties**

**HJC Properties (Applicant)**

**Mr Colin Knox (Respondent)**

**56 Cecil Street, Glasgow, G12 8RJ (House)**

1. 3 May 2022 the First Tier Tribunal for Scotland Housing and Property Chamber (FTT) received the application, which was made under rule 66 of the Procedure Rules and stated as the grounds applicable grounds ground 12 of schedule 5 of the Housing (Scotland) Act 1988.
2. Appended to the application was a tenancy agreement, a s 33 notice with execution of service by Sheriff Officers and an AT6 notice with execution of service by Sheriff Officers and a rent statement. Although a s 11 notice was listed in the documents

accompanying the application, this was not produced.

3. On 26 May 2022, 23 June 2022 and 5 August 2022 the FTT wrote to the applicant asking him whether he wished to amend the application as it was made in terms of rule 66 and S 33 of the Housing (Scotland) Act 1988 but not accompanied by a Notice to Quit. The Applicant confirmed in his letter of 1 June 2022 the applicant confirmed that no Notice to Quit was served. The FTT did not receive a reply to the further letters sent on 23 June 2022 and 5 August 2022.
4. The documents contained in the case file are referred to for their terms and held to be incorporated herein.

## **DECISION**

5. 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."*

- 6. 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**

### **Application for order for possession upon termination of a short assured tenancy**

**66.** Where a landlord makes an application under section 33 (recovery of possession on termination of a short assured tenancy) of the 1988 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; and

(iii)the name and address of the tenant;

(b)be accompanied by a copy of—

(i)the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the landlord can give;

(ii)the notice by landlord that the tenancy is a short assured tenancy; and

(iii)the notice given to the tenant under section 33(1)(d) of the 1988 Act;

(iv)the notice to quit served by the landlord on the tenant;

(v)a copy of the notice by the landlord given to the local authority under section 11 of the Homelessness (Scotland) Act 2003 (if applicable), and

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

and

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

1. Rule 66 (b) (iv) requires the Applicant to lodge a Notice to Quit. The Applicant has confirmed no Notice to Quit was served on the Respondent.
2. Rule 66 (b) (v) requires that an application is accompanied by the Notice given to the

Local Authority in terms of S 11 of the Homelessness (Scotland) Act 2003. This was not provided.

3. The applicant has been advised that a Notice to Quit is required for an application under rule 66. He has also been advised that he may wish to consider amending the application if he wishes to base it on a different rule. He has not done so.
4. It would not be appropriate for the Tribunal to accept the application without the required valid Notice to Quit and without the required S 11 notice to the Local Authority. The application is therefore 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**

Petra Hennig McFatrige  
Legal Member  
23 September 2022