

Housing and Property Chamber
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS
OF THE CHAMBER PRESIDENT**

**Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property
Chamber Rules of Procedure 2017 (“the Chamber Rules”)**

in connection with

Case reference FTS/HPC/RA/22/2950

Parties

Mr Robert Merger (Applicant)

**The Earl of Elgin represented by Davidson & Robertson, Surveyors, Edinburgh
(Respondent)**

Property: Stables Cottage, Abbey House, Fife, Dunfermline, KY12 8JB (House)

1. On 18 August 2022 an application on a Form AT4 was received from the Applicant seeking a determination of rent under Sections 24(3) and 34(1) of the Housing (Scotland) Act 1988. This followed the Applicant’s receipt of a Form AT2 from the Respondent’s agents proposing an increase in rent to take effect from 1 March 2023.

2. A direction for information was issued to the parties to seek

(1) A copy of any Notice to Quit served on the Applicant.

(2) Written representations as to whether the current lease is a statutory assured tenancy.

(3) If no Notice to Quit has been served on the Tenant, written representations as to the validity of the AT4 served on the Tenant given that the terms of section 24 of the Housing (Scotland) Act 1988 (which sets of the provisions for rent increases under assured tenancies) only applies to statutory assured tenancies.

The statutory Form AT2 makes clear that this method of increasing rent is only available to a landlord if the tenancy is a statutory assured tenancy.

3. The Respondent's agents responded to indicate that no notice to quit has been served on the Applicant and provided no evidence or written representations that the tenancy is a statutory assured tenancy as directed to do so.

Decision

In the absence of the tenancy being a statutory assured tenancy, the First-tier Tribunal has no jurisdiction to determine the rent.

Accordingly, the Chamber President has good reason to believe that it would not be appropriate to accept the application and rejects the application in terms of rule 8 (1) (c) of the Chamber Rules. The Chamber President directs that a copy of this decision be sent to the Applicant and Respondent's agents.

What you should do now

If you accept the Chamber President's decision, there is no need to reply.

If you disagree with this decision –

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

A Devanny

Mrs. Aileen Devanny
Chamber President
20 October 2022

