



**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/25/3250

Parties

Supersave Properties Ltd. (Applicant)

35 Backmuir Road, Hamilton ML3 0LW (House)

1. On 28.7.2025 the First-tier Tribunal for Scotland Housing and Property Chamber (FTT) received the application under rule 66 of the Procedure Rules from the Applicant. The application was accompanied by a Tenancy Agreement commencing 23.3.2015 with a termination date of 22.3.2026. Attached were a S 11 notice and proof of service, a S 33 Notice dated 3.4.2025 and stating as the date for removing 10.6.2025, an AT5 notice and a Notice to Quit to 10.6.2025 dated 3.4.2025 together with proof that the S 33 notice and Notice to Quit were delivered to the tenant on 5.4.2025. An AT6 notice dated 1.7.2025 to 18.7.2025 with delivery confirmation on 4.7.2025, a rent statement, an "intention to serve notice" letter dated 15.1.2025 and a rent increase notice were also submitted.

2. On 3 occasions the FTT wrote to the Applicant advising that the Notice to Quit appears invalid as it was not issued to an ish date. The letters are referred to for their terms and held to be incorporated herein.
3. The Applicant argues that from excerpts of a Scottish Government website he is sure that an ish date is no longer relevant (letter of 18.8.2025) and that because the lease contained clause 9.b (an irritancy clause) there is no requirement for issuing notice to an ish date.
4. The third and final communication from the FTT to the Applicant on 23.10.2025 stated: " The provisions referred to in the tenancy agreement are irrelevant to this application. The application is based on Section 33 of the 1988 Act – termination of a short assured tenancy. The application can only proceed if you have served a valid notice to quit which terminates the tenancy contract. The notice you have served appears to be invalid as the date specified does not coincide with an ish date of the tenancy. Unless you can provide a valid notice to quit which was served on the tenant the application must be withdrawn or it will be rejected. You should note that rejection decisions are published on the Chamber website . You may wish to take legal advice before you respond. Please respond within 14 days or your application may be rejected."
5. The documents contained in the case file are referred to for their terms and held to be incorporated herein.

DECISION

6. 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."

- 7. 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. The decision is made on the basis that the application was made under rule 66. Rule 66 (b) (iv) requires the Applicant to lodge a Notice to Quit. The Notice to Quit lodged with the application and actually sent to the Respondent requires the tenants to quit the premises on 10.6.2025. The tenancy agreement shows as the relevant ish date the 22 March of any year as the lease duration would tacitly relocate annually in absence of any other provision in the lease. The Notice to Quit must be to an ish date.
2. The Applicant referred to a website extract, which related to assured shorthold tenancies, which are not tenancies under the jurisdiction of the FTT in Scotland. The information in that extract was not relevant to the current application.
3. The Applicant thereafter referred to clause 9 of the tenancy agreement, which provides the termination options. This is also not relevant to the application. Although the lease contains in clause 9.3 an irritancy clause if rent unpaid for 14 days, the requirement of S 33 (1) (a) of the Act that the short assured tenancy has reached its finish would not be met until the ish of the current term of the lease is reached. The Applicant raised the application under rule 66 and thus the FTT can only consider the matter in terms of the relevant provisions of S 33 of the Housing (Scotland) Act 1998 and rule 66 of the Procedure Rules. The Applicant was advised to take legal advice but has opted not to do so. The FTT cannot provide advice.
4. I consider that the application is not accompanied by a valid Notice to Quit as required in Rule 66 (b) (iv) of the Procedural Rules. The Notice to Quit was not to an ish date and thus invalid. The contractual tenancy continues. The requirements of an application have to be fulfilled for the application to be accepted.
5. It would not be appropriate for the Tribunal to accept the application without the required valid Notice to Quit. The lodging requirements for such an application have not been met. The application in terms of rule 66 is thus 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 McFatridge
Legal Member
26 November 2025