



**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/26/3118

Parties

Mrs Grace Tomley (Applicant)

54 Nithsdale Road, Ardrossan, Ayrshire, KA22 7NG (House)

1. On 4.7.26 the First –tier Tribunal for Scotland, Housing and Property Chamber (FTT) received an application for an order for possession under Rule 66 of the Procedural Rules and s 33 of the Housing (Scotland) Act 1988. The application indicated rule 66 on the form. It mentioned as the ground for the application that the landlord wished to move into the property. The application was only accompanied by the following documents:
 - a) a letter showing the date of 31.1.26 with Post Office certificate of posting attached dated 4.11.25. The letter does not show who it is addressed to or which property it relates to and is headed Notice to Quit.
 - b) a document headed Housing (Scotland) Act 1988 Section 22 (1) (d) dated 15.7.2025 addressed to the Respondent but referring to a tenancy start of March 2019. This

document states that vacant possession is required by 10 September 2025.

c) a Stirling Park Instruction document dated 17 7 25

2. The documents contained in the case file are referred to for their terms and held to be incorporated herein.

DECISION

3. 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."

4. 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; ...
 - (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
- (c)be signed and dated by the landlord or a representative of the landlord.

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.

5. The Application is made in terms of Rule 66 of the Rules of Procedure. This relates to orders for possession in relation to assured tenancies under S 33 of the Housing (Scotland) Act 1988.
6. The application was not accompanied by the tenancy agreement. It was not accompanied by the notice given to the local authority as required. It was not accompanied by the notice AT5 given to the tenant. It was not accompanied by a valid Notice to Quit as the notice lodged showed not who it was addressed to and to which property it related. The application thus does not comply with the lodging requirements stated in rule 66 b (i), (ii), (iv), (v) of the Rules of Procedure.
7. The information relating to the S 33 notice states that the tenancy was entered into in March 2019. This means that the tenancy would be a Private Residential Tenancy in terms of the Private Housing (Tenancies) (Scotland) Act 2016, which applies to all new private residential tenancies entered into after the Act came into force on 1.12.2017. The tenancy would thus not be a Short Assured Tenancy to which an application under rule 66 applies.
8. The FTT considered whether the application could be valid as an application under rule 109 of the rules of procedure, which would be the rule relevant to Private Residential Tenancies. However, it was not accompanied by a Notice to Leave and evidence of how this was served on the tenant, a S 11 notice and evidence of how this was given to the local authority and evidence that a ground under schedule 3 of the 2016 Act applies and thus did not meet the lodging requirements for an application under rule 109 (i), (ii), (iii) either.
9. For the reasons stated above it would not be appropriate for the Tribunal to accept the application as this does not fulfill the requirements of a valid application under either rule 66 or rule 109.

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.

Petre Hennig McFatridge

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Legal Member

30 July 2026