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/26/2613

Re: Property at Flat 3/1, 109 Albert Street, Dundee, DD4 6PJ ("the Property")

Parties:

Spearhead Properties Ltd, 26-28 High Street, Dundee, DD1 1TA ("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 9 June 2026.

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

Background

1 This is an application under rule 109 of the Rules and section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act"). The Applicant sought an eviction order in relation to a private residential tenancy on ground 12 of schedule 3 of the 2016 Act, stating that the tenant was in rent arrears. The application was submitted by the Applicant's representative, Belvoir Lettings.

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's representative by email on 30 June 2026. In summary, the Tribunal noted that according to the rent statement produced, it appeared that the rent account had not been in arrears for three or more consecutive months when the notice to leave was given to the tenant. Accordingly, following the decisions of the Upper Tribunal in *Rafique v Morgan (2022) UT 07* and *Majid v Gaffney (2019) UT 59*, the notice to leave was premature as ground 12 had not been established. The Tribunal asked the Applicant's representative to make detailed written submissions on how the application could proceed or withdraw

the application. The Tribunal also requested evidence of service of the notice to leave and evidence of compliance with the rent arrears pre-action protocol.

3 The Tribunal received no response from the Applicant's representative. On 20 August 2026 the Tribunal wrote again to the Applicant's representative requesting they provide a response no later than 3 September 2026, otherwise the Chamber President may reject the application.

4 No response has been received from the Applicant as at the date of this decision.

Reasons for decision

5 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"*.

6 The basis of the decision is the Applicant's failure to provide the information requested by the Tribunal which is required before the application can be given further consideration. The Tribunal has identified fundamental defects with the application which the Applicant has failed to address. The Applicant has been asked for a response on two occasions. They have been advised via their representative that the application may be rejected if they do not respond. They have therefore been given the opportunity to address the outstanding matters.

7 The Legal Member has therefore determined that, based on the Applicant's failure to provide the information and cooperate with the Tribunal, it would not be appropriate to accept the application. The application does not in its current form comply with the mandatory requirements of rule 109 of the Rules and must therefore be rejected.

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

15 October 2026

Legal Member/Chair **Date**