

Housing and Property Chamber
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF JOAN DEVINE, 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 Rules")**

in connection with

Flat 0/1, 23 Callander Street, Glasgow G20 7JZ ("Property")

Case Reference: FTS/HPC/EV/26/2863

Ian Chan, 137 Cortmalaw Crescent, Glasgow G33 1TB ("Applicant")

**PRG Properties, 12A Bridgewater, Erskine PA8 7AA ("Applicant's
Representative")**

1. The Applicant sought an order for possession of the Property in terms of Rule 109 of the Rules and Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 ("2016 Act"). The Applicant's Representative lodged form E dated 22 June 2026. The Applicant's Representative lodged a copy of an incomplete notice to leave. In the application it was noted that the Applicant wished to sell the let property.
2. By email dated 23 July 2026 the Tribunal requested further information including a full copy of the notice to leave, a copy of the section 11 notice sent to the local authority and evidence of it being sent as well as evidence of the landlord's intention to sell such as terms of engagement with a solicitor or estate agent regarding the sale of the property. The Tribunal also noted that title to the property was in the name of a party other than the Applicant and that the same party was the registered landlord for the property. The Tribunal sought clarification of the basis upon which the Applicant was entitled to be the landlord and the basis upon which they made the application.

3. The Applicant's Representative responded to the Tribunal by email dated 27 July 2026. A full copy of the notice to leave was not provided. No copy section 11 notice was provided or proof of delivery. No evidence of intention to sell was provided. No explanation was given as to why the Applicant was entitled to make the application. The Applicant's Representative asked "Can I have your thoughts please." The Tribunal responded explaining that they were unable to provide legal advice.

DECISION

4. The Legal Member considered the application in terms of Rule 8 of the Chamber 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.

5. **After consideration of the application and documents lodged in support of same the Legal Member considers that the application should be**

rejected on the basis that it is frivolous within the meaning of Rule 8(1)(a) of the Procedural Rules.

Reasons for Decision

6. 'Frivolous' in the context of legal proceedings is defined by Lord Justice Bingham in *R v North West Suffolk (Mildenhall) Magistrates Court*, (1998) Env LR9. He indicated at page 16 of the judgment; "What the expression means in this context is, in my view, that the court considers the application to be futile, misconceived, hopeless or academic". It is that definition which the Legal Member has considered as the test in this application, and on consideration of this test, the Legal Member considers that this application is frivolous, misconceived and has no prospect of success.
7. The Applicant seeks recovery of possession of property let under a private residential tenancy on the basis of ground 1, landlord intends to sell. No evidence of intention to sell was provided. A full copy of the notice to leave was not provided. In terms of section 56 of the 2016 Act a landlord may not apply to the Tribunal for an eviction order unless notice has been given to the local authority of the landlord's intention to do so. No evidence was provided of such notification having been given. More fundamentally, the Applicant did not hold title to the property. No explanation was provided as to how it was the Applicant was entitled to make the application.
8. In these circumstances, the Legal Member determines that the application is frivolous, misconceived and has no prospect of success. The application is rejected on that basis.

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.

Joan Devine, Legal Member
27 August 2026