

**DECISION AND STATEMENT OF REASONS BY THE 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

**46 Ellen Street, Whitburn, West Lothian, EH4 0HJ
the Property**

Case Reference: FTS/HPC/EV/19/1944

The Parties:-

Mrs Diane Hamilton, 7 Brighthouse Gait, Cramond, EH4 6QT

Applicant

Sneddon Morrison, 156 Station Road, Shotts, North Lanarkshire, ML7 4AW

Applicant's Representative

Mr Matthew Ruthven, whose address is unknown

Respondent

Background

1. By Application sent between 24th June 2019 and 24th July 2019 the Applicant applied to the Tribunal under Rule 66 of the Procedural Rules for an order for possession upon termination of a short assured tenancy.
2. In terms of Rule 8 of the Procedural Rules the Legal Member of the Tribunal under the delegated powers of the Chamber President considered whether there were grounds to reject the Application. The Legal Member determined to reject the Application on the basis that he had good reason to believe that it is frivolous under Rule 8(1)(a) of the Procedural Rules.

Reasons for Decision

3. The Legal Member considered the Application papers which were lodged and noted that the Applicant nor her Representative had replied to the Tribunal's letters dated 6th August 2019 and 25th September 2019. The Tribunal noted that the further information and documentation requested in those letters had not been supplied.

4. 'Frivolous' in the context of legal proceedings is defined by Lord Justice Bingham in *R v North West Suffolk (Mildenhall) Magistrates Court*, (1998) Env. L.R. 9. At page 16, he states:- "*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 had to consider in this Application in order to determine whether or not this application is frivolous, misconceived, and has no prospect of success.
5. The Applicant has not supplied the further information and documentation requested by the Tribunal. In the absence of such information and documentation the Legal Member determined that the Application has no prospect of success.
6. Therefore, having regard to the aforementioned test in *R v North West Suffolk (Mildenhall) Magistrates Court*, the Legal Member concluded that the Application is frivolous and has rejected it under Rule 8(1)(a) of the Procedure Regulations.

Decision

7. The Legal Member, with delegated authority from the Chamber President, determined to reject the Application as being frivolous in terms of Rule 8(1)(a) of the Procedure Regulations.

Gerald McWilliams

G McWilliams
Legal Member

24th October 2019

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:-

A party 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 on request.