



**Decision with Statement of Reasons of H Forbes, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules")**

**Chamber Ref: FTS/HPC/EV/22/0568**

**Re: 190 Main Street, East Calder, West Lothian, EH53 0HE ("the Property")**

**Parties:**

**Andrea Murphy ("the Applicant")**

**Sara Stoddart; Scott Stoddart ("the Respondent")**

**Tribunal Member:**

**Ms H Forbes (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be dismissed on the basis that it is frivolous within the meaning of Rule 8(1)(a) of the Procedural Rules and that it would not be appropriate to accept the application in terms of Rule 8(1)(c).**

**Background**

1. The application was received by the Tribunal under Rule 66 on 28<sup>th</sup> February 2022. The Applicant included a copy of an assured tenancy agreement that commenced on 25<sup>th</sup> August 2003.
2. By letter dated 1<sup>st</sup> March 2022, the Applicant's representative was informed that the application was incomplete and the following request for information was made, with a deadline given of 8<sup>th</sup> March 2022:
  - The notice by landlord that the tenancy is a short assured tenancy (AT5)
  - Notice to Quit
  - The notice given to the tenant under section 33(1)(d) of the 1988 Act

- A copy of the notice given to the local authority by the landlord under section 11 of the Homelessness (Scotland) Act 2003(13) (if applicable)

No response was received.

3. The letter was sent to the Applicant's representative by email on 29<sup>th</sup> March 2022, allowing a further seven days for a response. No response was received.
4. The application was considered by a legal member on 20<sup>th</sup> April 2022.

### Reasons for Decision

5. The Tribunal 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;·*

*(c) they have good reason to believe that it would not be appropriate to accept the application;*

*(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."*

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. 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".*
7. The application cannot be accepted in the absence of the requested information.

### 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.

Helen Forbes

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Legal Member/Chair

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20<sup>th</sup> April 2022  
Date