**Decision with Statement of Reasons of Alan Strain, 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/CV/22/4323**

**Re: 4 Douglas Terrace, Bo'ness, EH51 0LA ("the Property")**

**Parties**


**Dr Austin Reid, Dr Virginia Cano (Applicant)**

**Chantelle Marshall, David Mulholland (Respondent)**

**Tribunal Member:**

**Alan Strain (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 111 on 30 November 2022.

2. The application was considered by the Tribunal on 20 December 2022. The Applicant was asked to provide further information as follows:

*"Your application has been referred to a legal member. The legal member responds as follows: 1. Please provide copies of invoices and receipts in respect of the repairs/damage to the Property; 2. Please confirm the amount you seek an order for. The rent statement and record of repairs does not match with the figures claimed in the application form. Please reply to this office with the necessary information by 3 January 2023. If we do not hear from you within this time, the President may decide to reject the application. "*

3. No response was received. The Tribunal issued a reminder on 15 February 2023 extending the time limit for response to 1 March 2023. No response was received.

**Reasons for Decision**

4. 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."*

5. '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".*

6. The application seeks to proceed under Rule 111. The Applicant has failed to provide necessary information as detailed in paragraph 2 above. The Tribunal cannot grant an order under Rule 111 without the information requested.

7. Applying the test identified by Lord Justice Bingham in the case of ***R v North West Suffolk (Mildenhall) Magistrates Court*** (cited above) the application is frivolous, misconceived and has no prospect of success. Furthermore, the Tribunal consider that there is good reason why the application should not be accepted. The application is accordingly 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.**

**Alan Strain**

**21 March 2023**

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**Legal Member/Chair**              **Date**