

**DECISION AND STATEMENT OF REASONS OF NICOLA IRVINE, 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

**28 Forvie Circle, Bridge of Don, Aberdeen, AB22 8TA ("the Property")**

**Case Reference: FTS/HPC/CV/23/0751**

**Mr Seyed Mahmoud Mohaddes, Mrs Razieh Attar Zadeh ("the Applicant")**

**Mr Chimah Nduaguba ("the Respondent")**

1. The Applicant submitted an application in terms of Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules"). In support of the application, the Applicant submitted a copy of the tenancy agreement, rent statement and copy email correspondence.

**DECISION**

2. The Legal Member considered the application in terms of Rule 8 of the 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.*

- 3. After consideration of the application and the documents submitted by the Applicant 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 Rules.**

### **Reasons for Decision**

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 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.
5. The Tribunal sent an email to the Applicant's representative on 3 April 2023 requesting, amongst other things, the name(s) and address(es) of the Applicant(s) and the address of the Respondent. The Tribunal received a response from the Applicants' representative by email on 13 April 2023 providing the names of the Applicants but advising that they did not have an address for the Applicants or the Respondent.
6. The Tribunal issued an email requesting further information on 16 May 2023. The Tribunal received a response from the Applicants' representative by email

on 29 May 2023 advising that they did not have an address for the Applicants or the Respondent.

7. The Tribunal issued an email requesting further information on 21 June 2023. The Tribunal received a response from the Applicants' representative by email on 26 June 2023 in exactly the same terms as their email of 29 May 2023.
8. The Tribunal issued an email requesting further information on 29 July 2023. The Tribunal requested the information by 12 August 2023, otherwise the application may be rejected. No response was received.
9. The Tribunal issued an email requesting further information on 18 September 2023. The Tribunal requested the information by 25 September 2023, otherwise the application may be rejected. No response was received.
10. Rule 111 sets out that an application must state the name and address of the person and the name and address of any other party. The application made to the Tribunal does not meet these requirements and therefore cannot be accepted.
11. Rule 5 sets out the requirements of making an application. In terms of that Rule, the Chamber President or another member with delegated powers of the Chamber President may request further documents. The Rule provides that an application is not accepted where the outstanding documents requested are not received within a reasonable period.
12. The Applicants have been given many opportunities to provide the necessary information and have failed to do so. The Legal Member therefore determines that the application is frivolous, misconceived and has no prospect of success. The application is rejected on that basis.

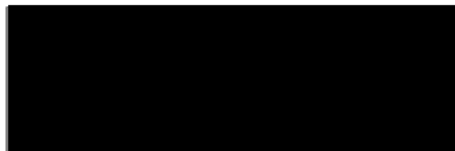
## **What you should do now**

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.



Nicola Irvine  
Legal Member  
16 October 2023