



**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**

**14 Geddes Hill, East Kilbride G74 3LL ("the property")**

**Case Reference: FTS/HPC/CV/23/2361**

**Aliyu Olateju, Apartment 6, The Bank, 72 Sidney Street DE1 2TU ("the  
Applicant")**

**Ayodeji Jimoh, flat E, 8 Grovepark Gardens, G20 7JB ("Applicant's  
Representative")**

**Magdalena Pietrzyk, 14 Geddes Hill, East Kilbride G74 3LL ("the Respondent")**

1. The Applicant seeks various orders in terms of Rule 111 of the Rules. In the form F section 5(c) the Applicant sought (a) a refund of rent of £600 and compensation; (b) an order that the Respondent stop renting the property until an HMO licence was obtained; and (c) an order that the Respondent provide future tenants with a tenancy agreement. Copies of emails and whatsapp messages were provided in support of the application. The Applicant's Representative told the Tribunal that a tenancy agreement had not been provided and that the Applicant had left the property.
2. The Tribunal issued a request for further information on 15 August 2023 to the Applicant's Representative. A response was received on 17 August 2023. The Tribunal issued requests for further information on 8 September and 27 October 2023 to the Applicant's Representative directing the Applicant to provide further information including clarification of the legal basis for the

application for compensation; clarification of the claim for a refund of rent when it appeared that the Applicant resided in the property for a period; clarification of whether the tenancy had been properly terminated in terms of sections 48 and 49 of the Private Housing (Tenancies)(Scotland) Act 2016; complete addresses for the Parties and evidence regarding the method by which the terms of the tenancy were agreed. A final response was sought by 10 November 2023. No response was received.

## **DECISION**

3. 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.

4. **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**

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 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.
6. The Applicant seeks various orders. The legal basis for seeking such orders is entirely unclear. The terms of the tenancy arrangements have not been fully explained. Full addresses for the Parties have not been provided. 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  
5 December 2023