

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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

**Case reference FTS/HPC/EV/23/2690**

**Parties**

**Mr Mark Brown (Applicant)**

**Mr Phillip Freeman, Mrs Kirsty Freeman (Respondent)**

**Property**

**18 Roundyhill, Monifieth, DD5 4RY (House)**

1. By application received on 8 August 2023 the Tribunal received an application for an eviction order from the Applicant. The application was made under Rule 109 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”).
2. The application was incomplete. On 14 September 2023 the Tribunal emailed the Applicant requesting a copy of the tenancy agreement, a copy of the section 11 notice and proof of service, and a proof of service of the Notice to Leave on the Respondents. The Tribunal received no response. On 1 November 2023 the Tribunal wrote again to the Applicant requesting the information by 15 November 2023, failing which the application may be rejected by the Chamber President. The Tribunal received no response.
3. Rule 8(1)(a) of the Rules allows an application to be rejected by the Chamber President if “they consider that an application is vexatious or frivolous”. “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”.
4. I consider that this application is frivolous or vexatious and has no reasonable prospect of success in its current form and in the absence of any further information from the Applicant. There is no proof of the service of the Notice to Leave and, furthermore, in the absence of the tenancy agreement it is not possible for the Tribunal to determine whether any Notice has been validly served under the terms of said agreement. Accordingly I do not believe the Tribunal can competently entertain the application.
5. It is open to the Applicant to make a new Application if he is in a position to satisfy the Tribunal regarding the outstanding information.

**NOTE:** What you should do now.

**If you accept this decision there is no need to reply. If you disagree with this decision you should note the following: An Applicant aggrieved by this 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 seek permission to appeal within 30 days of the date the decision was sent them. Information about the appeal procedure can be forwarded on request.**

# R O'Hare

**Ruth O'Hare, Legal Member**