



**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**

**Bayview House, Dunure Road, Ayr KA7 4LA ("the property")**

**Case Reference: FTS/HPC/CV/23/3708**

**Charlotte Sloan, 36 Lochlea Drive, Ayr KA7 3DP ("the Applicant")**

**Katrina MacDonald, 7 Craigsheen Avenue, Glasgow G76 9AG ("the  
Respondent")**

1. The Applicant seeks an order in terms of Rule 70 of the Rules. In the form F section 5(b) the Applicant stated that the reason for making the application was "The landlord must never find out my new address. I had to leave for my own safety. At section 5(c) the Applicant stated that she sought compensation "in regards to the landlord ever being registered making living conditions unbearable and cutting of heating and hot water. No documents were lodged in support of the application.
2. The Tribunal issued requests for further information on 20 October and 23 November 2023 to the Applicant directing the Applicant to provide further information including copies of supporting documents, clarification of the order sought, clarification of the legal basis for the application for compensation and clarification as to why the Applicant's address was to be withheld and yet had been stated in the application. A response was sought by 27 October 7 December 2023 respectively. 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 an order for compensation. The legal basis for seeking the order is entirely unclear. No supporting documents have 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  
17 January 2024