



**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

Flat ½, 822 Maryhill Road, Glasgow G20 7TB ("the Property")

Case Reference: FTS/HPC/CV/23/3016

Yixue Li, 5-7 Crosshall Street, Liverpool L1 6DR ("the Applicant")

Asif Haque, Flat 1/1, 1 Beaumont Gate, Glasgow G12 9EE ("the Respondent")

1. By Application dated 29 August 2023 the Applicant sought an order for payment under rule 111 of the Rules along with supporting documentation. In section 5 of the Application the Applicant stated that the order sought was *"Mr Asif still owes us a deposit of £875. For now we want Mr Asif to compensate us for the loss caused by the eviction, at least three times the deposit."*
2. The Tribunal sought further information on 15 September 2023 in an attempt to clarify the nature of the order sought, an explanation of the losses incurred and clarification as to whether a separate application was to be made under rule 103. The further information was sought in order to determine whether the Application was valid. No response was received. The Tribunal followed up the request for further information on 8 November 2023 and 21 December 2023. No response was received.
3. The Applicant lodged an application under rule 103 which proceeds under reference FTS/HPC/PR/23/4695. The Applicant lodged a fresh application under rule 111 which proceeds under reference FTS/HPC/CV/24/0036. On 2

February 2024 the Tribunal asked the Applicant to withdraw the current Application in light of the application under rule 103 and the fresh application under rule 111. No response was received.

DECISION

4. 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.

5. **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

6. '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.
7. The Application lacks clarity. The orders sought in it now appear to be duplicated in cases FTS/HPC/PR/23/4695 and FTS/HPC/CV/24/0036. 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.



Legal Member
4 March 2024