



**DECISION AND STATEMENT OF REASONS OF ALISON KELLY, 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

Case reference FTS/HPC/EV/24/0316

**Parties**

**Mr Michael Gordon (Applicant)**

**Mrs Cecilia Pripon (Respondent)**

**Flat D, 10 Ballantine Place, Perth, PH1 5RS (House)**

1. The Applicant seeks an eviction order in terms of Rule 109 of the Rules and Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act"). The Applicant lodged a tenancy agreement and Notice to Leave in support of the application. The Ground of eviction is Ground 1- the landlord wishes to sell the let property.
2. The Tribunal downloaded the title deeds which show that the property is owned by Catherine Drake. The landlord in terms of the tenancy Agreement is shown as Tony Drake. The Applicant in the application is Michael Gordon.

3. The Tribunal wrote to the Applicant on 5<sup>th</sup> March 2024 asking for an explanation. The Applicant responded on 18<sup>th</sup> March 2024 but did not provide a satisfactory explanation. The Tribunal wrote again on 17<sup>th</sup> April 2024 suggesting the Applicant was acting as agent and asking for mandates from the landlord and owner. The Applicant submitted documents but these could not be opened by the Tribunal's administration. The Tribunal wrote to the Applicant again on 22<sup>nd</sup> May 2024 asking for further information. The Applicant has not replied.

## 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 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**

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 ground relied upon, Ground 1 has not been met. The ground requires the Tribunal to be satisfied that the landlord has title to sell the let property. It appears that the landlord does not own the let property and therefore does not have title to sell it. 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.



Alison Kelly  
Legal Member  
1<sup>st</sup> July 2024