



**Decision with Statement of Reasons of H Forbes, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber)**

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

**Chamber Ref: FTS/HPC/PR/24/2917**

**Re: 302 Main Street, Rutherglen, Glasgow, G73 3AE ("the Property")**

**Parties:**

**George Stewart; Gillian Gorman ("the Applicant")**

**Stefanie Moore ("the Respondent")**

**Tribunal Member:**

**H Forbes (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be rejected on the basis that the application is frivolous in terms of Rule 8(1)(a) of the Procedural Rules, and the Tribunal has good reason to believe it would not be appropriate to accept the application in terms of Rule 8(1)(c) of the Procedural Rules.**

**Background**

1. The application was received by the Tribunal under Rule 69 on 26<sup>th</sup> June 2024 with associated documents. The Applicant was seeking compensation for unlawful eviction following the granting of an order for possession by a tribunal.
2. The application was considered by a legal member of the Tribunal with delegated authority of the Chamber President and further information was requested on 22<sup>nd</sup> July 2024, including clarification of the legal basis of the claim.
3. By email dated 29<sup>th</sup> July 2024, the Applicant lodged a copy of the tenancy agreement and asked for advice on lodging the application as unlawful/wrongful eviction.

4. On 16<sup>th</sup> August 2024, the Applicant was notified that the Tribunal cannot give advice as requested. The Applicant was advised to take suitable advice and provide a submission as to how the application could be accepted. No response was received. A further opportunity to provide the requested information was made to the Applicant on 23<sup>rd</sup> September 2024. No response was received.

## Decision

5. The Tribunal 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;·*

*(c) they have good reason to believe that it would not be appropriate to accept the application;*

*(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."*

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. 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"*.
7. On consideration of the above test, the Tribunal considers that this application is frivolous, misconceived and has no prospect of success. The Tribunal also determined that the application should be rejected in terms of Rule 8(c) on the basis that there is good reason to believe it would not be appropriate to accept the application.

## Reasons for Decision

8. The tenancy in this application was terminated by the operation of section 33 of the Housing (Scotland) Act 1988. The Applicant has made a claim for compensation for unlawful eviction. In terms of section 36 of the Housing (Scotland) Act 1988, a tenant can make a claim for unlawful eviction if a landlord has unlawfully deprived an occupier of his or her occupation. There is

no provision in the 1988 Act for a wrongful termination order. It was not clear from the information provided that unlawful eviction had taken place, and the Applicant did not provide any further information as requested.

9. The application is frivolous and there is good reason to believe it would not be appropriate to accept the application. The application is rejected.

### **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal 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.**

# H Forbes

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Legal Member/Chair

28<sup>th</sup> October 2024  
Date