



**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**

**1/37, 220 Wallace Street, Glasgow G5 8AF ("the Property")**

**Case Reference: FTS/HPC/PR/24/4578**

**HariPriya Sethvramamurugan, London Scottish Property Investment and  
Aparna Gayathri 1/37, 220 Wallace Street, Glasgow G5 8AF ("the Applicant")**

**Cyrus UK Group Ltd, 257 Renfrew Street, Glasgow G3 6TT ("the Respondent")**

1. By Application dated 2 October 2024 the Applicant sought an order for payment under rule 103.
2. On 8 October 2024 the Tribunal sought further information. The information was required to be lodged by 15 October 2024. The further information requested was as follows : a legible version of the application; the identity of the landlord who should be named as the respondent as the respondent in the application was the letting agent; an explanation as to why one applicant was a limited company when the application related to a residential tenancy; evidence of the deposit having been paid and confirmation from the deposit scheme administrators that they did not hold the deposit; clarification of the order sought and information regarding the tenancy as no tenancy agreement was provided.
3. By email dated 15 October 2024 the Applicant sought an extension of time to provide the information requested. An extension was granted to 30 October

2024. On 29 October 2024 the Applicant sought a further extension of time. An extension was granted to 8 November 2024. No response was received to the request for further information. On 14 November 2024 the Tribunal advised the Applicant that the further information required to be provided within 10 days failing which the application was likely to be rejected. 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 Tribunal had requested clarification of a number of issues by the Applicant. The most fundamental point raised by the Tribunal was that the respondent in the application was a letting agent. The Applicant said they did not know the identity of the landlord. An application under rule 103 requires to be made against the person who is landlord in terms of the tenancy agreement entered into by the Applicant. An application brought against a letting agent is incompetent. 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  
26 November 2024