



**DECISION AND STATEMENT OF REASONS OF JAMES BAULD, 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 Procedural Rules")

in connection with

**Case reference**

Case reference FTS/HPC/PF/25/0781

**Parties**

**Mr Petr Berka (Applicant)**

**1/4 17 Springfield Gardens, Glasgow, G31 4HT (Property)**

1. The application was lodged on 21 February 2025 and was accompanied by supporting documentation. Further emails were received from the applicant on 24 February 2025, 28 February 205 and 3 March 2025. The later two emails may relate to an earlier application under tribunal reference FTS/HPC/PF/24/5160 which was recently rejected.
2. The application was apparently made under Rule 43 of the Procedural Rules being an application to for determination of whether property factor has failed to comply with the Property Factors (Scotland) Act 2011("the 2011 Act") and with the Codes of Conduct issued in terms of that Act. In the application, the applicant raises issues relating to charges for car park lighting at the property.
3. The application seems to raise identical issues that were dealt with in previous

tribunal applications.

4. In application under tribunal reference FTS/HPC/PF/22//2026, the same issue was raised by the applicant relating to car park lighting. A decision was issued dated 23 November 2022 in which the tribunal made a finding that the property factor had not failed to comply with the relevant parts of the Code of Conduct. Permission to appeal that decision to the Upper Tribunal was refused by decision dated 13 December 2022.
5. There was a further application made under tribunal reference FTS/HPC/PF/24/0298. It raised the same issue. A decision was issued dated 7 July 2024 which refused that application on the basis that this issue had already been decided by the tribunal on 23 November 2022. Again permission to appeal that decision to the Upper Tribunal was refused.
6. In neither case did the applicant then seek permission from the Upper Tribunal to pursue any appeal.
7. A further application raising the same issue was lodged by the applicant in 11 November 2024. That application was given tribunal reference FTS/HPC/PF/24/5160 and was rejected by decision dated 6 February 2025. A request to review that rejection was found to be wholly without merit and refused by decision date 13 February 2025 .

## **DECISION**

8. The circumstances in which an application is to be rejected are governed by 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."*

- 9. After consideration of the application, the further information referred to and the lack of correspondence from the Applicant, the Legal Member considers that the application should be rejected on the basis that it falls within the reasons for rejection contained within the provisions of each of Rule 8(1)(a), 8(1)(b) , 8(1)(c) and 8(1)(e) of the Procedural Rules.**

## **REASONS FOR DECISION**

10. .This application is the fourth identical application submitted by the applicant. His first application was refused. This application raises the same issue which has already been considered on three separate occasions by the tribunal. It raises no new matter which requires to be considered. It is clearly vexatious and

frivolous. It clearly raises an issue in which a previous application has resolved the dispute. The tribunal believes that it would not be appropriate to accept this application as it relates to a matter which has been previously decided by the tribunal. The application clearly raises an issue which is identical (or at least substantially similar) to three applications which has previously been received and determined or rejected by the tribunal and in respect of which there has been no significant change in any material consideration since the identical or substantially similar application were determined

11. For all of these reasons the application falls to be rejected in terms of rule 8 and the legal member has determined that the application cannot be accepted and it is rejected

### **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.

Mr James Bauld  
Legal Member  
19 March 2025

