



**DECISION AND STATEMENT OF REASONS OF FIONA WATSON, 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

24B Sword Street, Airdrie, North Lanarkshire, ML6 0BU ("the Property")

Case Reference: FTS/HPC/CV/25/1699

**Valentin Gabriel Voicu, 24B Sword Street, Airdrie, North Lanarkshire, ML6 0BU
("the Applicant")**

1. The Applicant submitted an application under Rule 70 of the Rules seeking a payment order against the Respondent. The Applicant lodged the following accompanying documents with the application:
 - (i) Scottish Secure Tenancy Agreement
 - (ii) Letter from Respondent regarding housing points
 - (iii) Correspondence between the parties
 - (iv) Copy letter from Healthsure Physiotherapy
 - (v) Diary of antisocial behaviour
 - (vi) Health and Housing Support Needs Assessment
 - (vii) Letter from Victim Support Scotland
 - (viii) Correspondence between the Applicant and his MSP
 - (ix) Photographs
 - (x) Notes of Police complaint reference numbers

DECISION

2. 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.”

3. **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

4. '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.

5. The application seeks to raise an application under Rule 70 of the Rules. Rule 70 states as follows:

“Application for civil proceedings in relation to an assured tenancy under the 1988 Act

70. Where a person makes any other application to the First-tier Tribunal by virtue of section 16 (First-tier Tribunal’s jurisdiction in relation regulated and assured tenancies etc.) of the 2014 Act, the application must—

(a) state—

(i) the name and address of the person;

(ii) the name and address of any other party; and

(iii) the reason for making the application;

(b) be accompanied by—

(i) evidence to support the application; and

(ii) a copy of any relevant document; and

(c) be signed and dated by the person.”

6. The 2014 Act referred to in Rule 70 is the Housing (Scotland) Act 2014 (the 2014 Act”). Section 16 of the 2014 Act states as follows:

“16 Regulated and assured tenancies etc.

(1) The functions and jurisdiction of the sheriff in relation to actions arising from the following tenancies and occupancy agreements are transferred to the First-tier Tribunal—

(a) a regulated tenancy (within the meaning of section 8 of the Rent (Scotland) Act 1984 (c.58)),

(b) a Part VII contract (within the meaning of section 63 of that Act),

(c) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988 (c.43)).

(2) But that does not include any function or jurisdiction relating to the prosecution of, or the imposition of a penalty for, a criminal offence.

(3) Part 1 of schedule 1 makes minor and consequential amendments.”

7. The applicant appears to have entered into a Scottish Secure Tenancy Agreement with the Respondent, which type of agreement arises under the Housing (Scotland) Act 2001. A Scottish Secure Tenancy Agreement does not fall within the types of tenancies and occupancy agreements as set out in section 16. Accordingly, it is not competent to raise a Rule 70 application where

the tenancy agreement does not fall within those types of tenancies as set out at section 16. The Tribunal has no jurisdiction to deal with an application relating to a Scottish Secure Tenancy Agreement, which jurisdiction remains with the Sheriff Court.

8. Letters were sent to the Applicant on 9 May and 14 May 2025 advising that *“this Tribunal has no jurisdiction in respect of any disputes which arise between landlords and tenants in Scottish secure tenancies. Our jurisdiction is limited to specific tenancy disputes arising in private sector tenancies. Any action which you wish to take against the council would require to be lodged in your local sheriff court. The tribunal would respectfully suggest that you may find it useful to seek independent legal advice on this application, the matters contained in this letter and any further action which you wish to take. Having done so, please confirm that you agree that this tribunal is not the correct place to deal with your proposed action and that you wish to withdraw the application. If not, the tribunal will have no option but to reject your application as it simply does not have jurisdiction in law to deal with it.”*
9. The Applicant has failed to confirm that he wishes to withdraw the application. The tribunal accordingly has no alternative but to reject the application on the grounds of (i) lack of competency and (ii) lack of jurisdiction. The application 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.

F Watson

Fiona Watson
Legal Member
16 May 2025