

**DECISION AND STATEMENT OF REASONS OF NICOLA IRVINE, 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

306C London Road, Glasgow, G40 1PN ("the Property")

Case Reference: FTS/HPC/CV/25/0586

Miss Weronika Dluzniewska (Applicant)

1. The Applicant submitted an application in terms of Rule 111 of the Rules on 11 February 2025.

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. On 13 March 2025, the Tribunal issued an email to the Applicant in the following terms:-

Your application has been reviewed by a legal member of the First-tier Tribunal with delegated powers of the Chamber President who has raised the following matters:

Your application appears to be lodged in terms of rule 111 the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 which relates to applications for civil proceedings in relation to a private residential tenancy.

In your application form, you provide no details of the amount of any payment order that you are seeking. You provide no proper details of any injury that you suffered not any evidence of its impact upon you. You have provided no details of any medical treatment which you sought in relation to the injury. You do not indicate when this alleged incident occurred. You provide no indication of the manner in which the alleged incident occurred. You say that the shower fell on top of you. Do you mean the whole shower unit or just the shower head or the shower pipe?

You say you have photographs. You have not enclosed them.

If you are seeking damages for a personal injury, please explain why you believe this tribunal is the correct forum for such a claim and not the sheriff court?

In your application, you indicate that that your shower is once again not working. If you are alleging that the property does not meet the repairing standard then you require to lodge a separate type of application where you can ask that the tribunal makes what is known as a repairing standard enforcement order if you can demonstrate that the property provided by your landlord does not comply with the repairing standard set out in the Housing (Scotland) Act 2006.

We would strongly suggest that you seek independent legal advice on the matters contained in this letter prior to responding.

Upon receipt of the above information, a final decision can then be taken on whether the application is valid and whether it should be accepted and referred to the tribunal for full determination.

Please reply to this office with the necessary information by 27 March 2025. If you fail to respond to this letter then the tribunal may reject your application. You should be aware that the Tribunal has the power to reject applications on grounds set out in rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

No response was received.

6. On 22 April 2025, the Tribunal issued a further email to the Applicant's representative in the following terms:-

Thank you for your recent application which has been reviewed by a Legal Member of the Tribunal with delegated powers of the

President. Please provide the following further information:

- 1. By email dated 13 March 2025 the Tribunal sought further information. You have not replied. Please now provide the further information failing which the application may be rejected.*

Please reply to this office with the necessary information by 6 May 2025. If we do not hear from you within this time, the President may decide to reject the application.

No response was received.

7. The Applicant has been given two opportunities to provide further information and has failed to do so. The application does not meet the requirements of rule 111. 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.

Nicola Irvine

16 June 2025