

**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

**34 Biggar Road, Cleland, ML1 5PB ("the Property")**

**Case Reference: FTS/HPC/EV/25/0471**

**James Chapman (Butchers) Ltd (Applicant)**

1. The Applicant's representative submitted an application in terms of Rule 66 of the Rules on 4 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 10 March 2025, the Tribunal issued an email to the Applicant's representative in the following terms:-

*Before a decision can be made, we need you to provide us with the following:*

*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 seeks an eviction order on the basis that the tenancy is a short assured tenancy. The initial tenancy bears to run from 1*

*August 2015 to 31 December 2016 and monthly thereafter.*

*Please provide a copy of the required Form AT5 with evidence of service upon the tenant prior to the commencement of the tenancy*

*In the notice to quit which has been provided, no date is indicated upon which the tenant requires to quit the premises. Does the notice to quit specify a removal date which is an “ish” or end date of the tenancy? If not on what basis is the purported notice effective and valid in law?*

*The section 33 notice which has been provided appears to be undated. The copy letter which appears to have been sent to the tenant dated 21 October 2024 indicates to the tenant that he requires to vacate the property by 27 July 2024, a date some three months prior to the letter*  
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*Have appropriate notices been given to the tenant to enable the procedure in section 33 of the 1988 act to be followed?*

*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 respond to this letter within the next two weeks.*

*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*

*Please reply to this office with the necessary information by 24 March 2025. If we do not hear from you within this time, the President may decide to reject the application.*

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:*

- *The Tribunal sought further information by email dated 10 March*

*2025. You have not replied. Please now provide the further information requested failing which the application is likely to 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 66. 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