

**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

**15D Kilcreggan View, Greenock, Inverclyde, PA15 3JA ("the Property")**

**Case Reference: FTS/HPC/EV/25/0248**

**SKN Horizons Ltd (Applicant)**

1. The Applicant submitted an application in terms of Rule 109 of the Rules dated 21 January 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. The Tribunal issued an email to the Applicant's representative on 4 February 2025. The terms of that email were as follows:

*Your email does not fully address the matters previously requested. You have not provided a copy of the notice which is required to be given to the local authority under section 11(3) of the Homelessness etc. (Scotland) Act 2003. Please provide evidence of the method and date on which that was given to the local authority. On what basis are the enclosed photographs proof of service of the notice to leave? Who delivered the notice. On what date was it delivered? Was it handed personally to the tenant?. Please consider the provisions contained in section 26 of the Interpretation and Legislative Reform (Scotland) Act 2010 and indicate whether you believe this notice has been properly served. You have lodged an amended*

*application form. You now seem to indicate that you wish to rely upon ground 8 (3 months' rent arrears) and Ground 10 (tenant served notice but hasn't left). Neither of these are grounds which apply to private residential tenancies. Please provide an amended application showing a ground contained in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") and provide appropriate evidence of such ground existing and that the tenant has been given a notice to leave on that ground. If you seek to obtain an eviction order based on rent arrears, then you are also required to provide evidence of compliance with The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020. What steps have been taken in conjunction with the tenant to manage arrears prior to commencing proceedings for repossession on the grounds of rent arrears. Your application in its current form is likely to be rejected unless you can provide the documents previously requested. The tribunal would suggest that you may wish to seek independent legal advice on this application, the matters contained in this letter and any further action which you wish to take. 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 by 18 April 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.*

6. The Tribunal did not receive any response from the Applicant's representative.
7. The Applicant has been given an opportunity to provide further information and has failed to do so. The application does not meet the requirements of rule 109. 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  
Legal Member  
22 May 2025