



**DECISION AND STATEMENT OF REASONS OF JOAN DEVINE, 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

8/2 Eyre Crescent, Edinburgh EH3 5ET ("the Property")

Case Reference: FTS/HPC/CV/25/1703

Christopher Lynch, 8/2 Eyre Crescent, Edinburgh EH3 5ET ("the Applicant")

1. The Applicant lodged form F, application for civil proceedings, dated 16 April 2025. At section 5(b) the Applicant stated that the reason for making the application was that the Respondent had committed a criminal offence by operating as a landlord without a licence for at least 5 years. At section 5(c) the Applicant stated that the order sought was for the Tribunal to investigate the matter and take appropriate enforcement action including imposing a fine on the Respondent and awarding compensation to the Applicant.
2. On 16 May 2025 the Tribunal returned the application to the Applicant noting that an application under rule 111 is for civil proceedings arising out of a residential tenancy and that the application did not relate to that type of application. On 20 May 2025 the Applicant emailed the Tribunal querying why the application had been returned. On 4 June 2025 the Tribunal emailed the Applicant noting that the application did not have a proper legal basis and asked the Applicant to withdraw the application or provide an amended application which clearly set out the legal basis on which the application was made. The Applicant did not reply.

DECISION

3. 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.

- 4. After consideration of the Application and documents lodged 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 Procedural Rules.**

Reasons for Decision

5. '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.

6. The Applicant failed to state a proper legal basis for the application. The remedy sought by the Applicant did not fall within the jurisdiction of the Tribunal. In all the circumstances, the Legal Member 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.

J Devine

Joan Devine
Legal Member
15 July 2025