



**DECISION AND STATEMENT OF REASONS OF ALISON KELLY, 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

1/10 Thornwood Gardens, Glasgow, G11 7PT ("the Property")

Case Reference: FTS/HPC/PR/25/1816

Angelina Kancheva ("the Applicant")

1. The Applicant seeks an order in terms of Rule 78 of the Rules having lodged an application with the Tribunal on 29th April 2025.
2. The Applicant provided a tenancy agreement showing that the tenancy commenced on 1st September 2024 and was therefore subject to the Private Housing (Tenancies)(Scotland) Act 2016.
3. The Tribunal sent an email to the Applicant on 15th May 2025 indicating that rule 78 relates to applications made by tenants in respect of an allegation that an eviction order under Case 7 or 8 in the Rent (Scotland) Act 1984 was granted by the tribunal in a situation where that order was obtained by misrepresentation or concealment of material facts by the landlord. The Tribunal went on to say that this rule and that type of eviction order relates solely to regulated tenancies under the Rent (Scotland) Act 1984. Further the Tribunal stated that the tenancy was a private residential tenancy under the Private Housing (Tenancies) (Scotland) Act

2016 and asking if the Applicant wished to withdraw the application. The Applicant has not done so.

DECISION

4. 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.

5. 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

6. '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.
7. Section 55(1) of the Private Housing (Tenancies) (Scotland) Act 2016 states as follows:
 - (1) *A landlord may not make an application to the First-tier Tribunal for an eviction order against a tenant using a copy of a notice to leave more than six months after the day on which the relevant period in relation to that notice expired.*
 - (2) *In subsection (1), "the relevant period" has the meaning given in section 54(2).*
 - (3) *The reference in subsection (1) to using a copy of a notice to leave in making an application means using it to satisfy the requirement under section 52(3).*
8. Applications under Rule 78 apply solely to regulated tenancies under the Rent (Scotland) Act 1984. The application is therefore incompetent and falls to be rejected.

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.

A.Kelly

Legal Member
30th June 2025