



**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

28 Main Street, Cairneyhill, Fife, KY12 8QZ ("the Property")

Case Reference: FTS/HPC/PR/25/0188

Ranjan Bhat ("the Applicant")

Lixin Liu ("the Respondent")

1. The Applicant seeks an order in relation to unlawful eviction in terms of Rule 110 of the Rules and Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act"), having lodged an application with the Tribunal on 15th January 2025.
2. The Tribunal asked the Applicant to provide a copy of any Notice to Leave served seeking to bring the tenancy to an end. In an email to the Tribunal dated 2nd June 2025 the Applicant confirmed that no Notice to leave was served, and that the landlord made the request for the Applicant to leave by WhatsApp message.

3. 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. Rule 110 states:

110. *Where a former tenant makes an application under section 57(2) (wrongful termination by eviction order) or section 58(2) (wrongful termination without eviction order) of the 2016 Act, the application must—*

(a)state—

(i)the name and address of the former tenant;

(ii)the name, address and profession of any representative of the former tenant; and

(iii)the name, address and registration number (if any) of the former landlord;

(b)be accompanied by evidence showing that the tenancy was unlawfully terminated; and

(c)be signed and dated by the former tenant or a representative of the former tenant.

Section 58 of the 2016 Act states:

(1)This section applies where a private residential tenancy has been brought to an end in accordance with section 50.

(2)An application for a wrongful-termination order may be made to the First-tier Tribunal by a person who was immediately before the tenancy ended either the tenant or a joint tenant under the tenancy ("the former tenant").

(3)The Tribunal may make a wrongful-termination order if it finds that the former tenant was misled into ceasing to occupy the let property by the person who was the landlord under the tenancy immediately before it was brought to an end.

(4)In a case where two or more persons jointly were the landlord under the tenancy immediately before it ended, the reference to the landlord in subsection (3) is to any one of those persons.

Section 50 of the 2016 Act states:

- (1) A tenancy which is a private residential tenancy comes to an end if—*
- (a) the tenant has received a notice to leave from the landlord, and*
 - (b) the tenant has ceased to occupy the let property.*
- (2) A tenancy comes to an end under subsection (1) on the later of—*
- (a) the day specified in the notice to leave in accordance with section 62(1)(b), or*
 - (b) the day on which the tenant ceases to occupy the let property.*
- (3) For the avoidance of doubt, a tenancy which is to come to an end under subsection (1) may be brought to an end earlier in accordance with section 48.*

It therefore follows that before an Order can be made by the Tribunal under Rule 110 a Notice to Leave must have been served. No such Notice has been served and the application therefore cannot be accepted.

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
23rd June 2025