



**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

35 Blackmuir Road, Hamilton ML3 OLW ("the Property")

Case Reference: FTS/HPC/EV/25/1093

Supersave Properties Ltd ("the Applicant")

Stonevale Lettings Ltd ("the Applicant's Representative")

1. By Application dated 11 March 2025 the Applicant sought an order for eviction under sections 18 and 33 of the Housing (Scotland) Act 1988 ("1988 Act") under rules 65 and 66 of the Rules.
2. The documentation produced in support of the application was a short assured tenancy for the period 23 March 2015 to 22 March 2016; a notice to quit dated 28 January 2025 which sought to terminate the tenancy at 2 March 2025; a notice under section 33 of the 1988 Act dated 28 January 2025 which sought possession of the Property on 2 March 2025 and an AT6 dated 28 January 2025 which was stated to be based upon "ground 8 – 3 months rent arrears" and in which the date at part 4 was blank. No evidence of service of any of the notices was produced.
3. By email to the Applicant's Representative dated 3 April 2025 the Tribunal sought further information regarding the validity of the notices lodged; evidence of service thereof; clarification of whether an order was sought under section 19 or 33 of the 1988 Act and clarification as to why two identical applications had been lodged seeking an order for possession. On 28 May 2025 the

Applicant's representative replied resubmitting paperwork already lodged and noting the points made by the Tribunal regarding notice periods given to the Respondent.

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 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

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. The notice to quit lodged was invalid as it sought to terminate the tenancy at 2 March 2025 which was not an ish date. The tenancy can only be terminated at the end of each 12 month rolling period on 22 March each year. The section 33 notice lodged was invalid as it did not give the Respondent 2 months' notice as required by section 33 of the 1988 Act. The AT6 lodged was invalid as it was based upon a ground for eviction that was repealed on 1 October 2022 by the Coronavirus (Recovery and Reform)(Scotland) Act 2022 and failed to state the period of notice being given to the Respondent.
8. 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

Legal Member
25 June 2025