



**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

**2 Snopwdrop Walk, Peterhead, AB42 3GF ("the Property")**

**Case Reference:** FTS/HPC/EV/24/4934

**Barry William Lauder ("the Applicant")**

1. The Applicant seeks an eviction order in terms of Rule 109 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 28<sup>th</sup> October 2024.
2. The Applicant was asked by the Tribunal for further information and documents on numerous occasions.
3. On 25<sup>th</sup> March 2025 the Tribunal sent an email to the Applicant containing the following:

*We cannot accept a notice to leave served after the application has been made.  
Please now consider withdrawing the application and serving further notice to*

*leave on both tenants. You may wish to take advice to ensure the notices are completed and served correctly. Please inform us of your decision in respect of withdrawing the application or is it likely that a rejection decision will be issued and published on our website.*

*If making a further application, please contact the relevant local authority in respect of the section 11 notice. Please also ensure you provide evidence to support the ground of eviction.*

The email requested a reply by 8<sup>th</sup> April 2025.

4. On 9<sup>th</sup> May 2025 the Tribunal sent a further email noting there had been no response to the email of 25<sup>th</sup> March 2025, and giving a final deadline of 16<sup>th</sup> May 2025. No response has been received from the Applicant.

## **DECISION**

5. 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.*

- 6. 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**

7. '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.
8. The Applicant has not provided all the information which is required to allow the application to proceed. 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.

# A Kelly

Alison Kelly  
Legal Member  
23<sup>rd</sup> June 2025