



**DECISION AND STATEMENT OF REASONS OF NICOLA IRVINE, 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

16 Kirklandneuk Road, Renfrew, PA4 9BP ("the Property")

Case Reference: FTS/HPC/EV/25/1623

Mr Stephen Reilly (Applicant)

1. The Applicant submitted an application in terms of Rule 66 of the Rules dated 12 April 2025.

DECISION

2. 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.

- 3. 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

4. '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.
5. On 7 May 2025, the Tribunal issued an email to the Applicant in the following terms:-

Your applications have been assessed by a Legal Member of the Tribunal with the delegated authority of the Chamber President. The Legal Member has requested the following information or documentation:

FTS/HPC/CV/25/1625

1. Please provide a rent statement showing rent due, rent paid and a running total of rent arrears.

FTS/HPC/EV/25/1623

1. The notice to leave provided does not have a date inserted at section 4. This is likely to invalidate the notice. If you have served a notice to leave that is properly completed, please provide a copy. If not, please consider withdrawing the application and serving another notice. You may wish to take advice from a solicitor or suitable advice agency to ensure the notice is completed and served correctly. You should also be aware of the following if this application is to continue, or if you are making a further application:

2. You have ticked the box on the application form to say this is a Rule 66 application, which pertains to short assured tenancies created before 1st December 2017, yet you have stated on the notice to leave that the tenant has lived at the property for around 5 years, which would make this a private residential tenancy (created after 1st December 2017). You have also served a notice to leave, which pertains to a private residential tenancy. If the application is to continue, please provide an amended page of the application form to show the correct box ticked.

3. We would require evidence of service of a valid notice to leave upon the Respondent.

4. We would require a copy of the tenancy agreement, or as much information as you can provide on the terms of the tenancy.

5. We would require a rent statement showing rent due, rent paid and a running total of rent arrears.

6. An application for an eviction order cannot be accepted without a copy of a section 11 notice served on the local authority with evidence to show how and when it was served.

7. The grounds of eviction stated in the application form should mirror those in the notice to leave.

8. We would expect to see compliance with the pre-action protocol for rent arrears.

9. The mortgage statement shows personal information such as the mortgage account number. All documentation is shared with the Respondent, so you may wish to consider lodging redacted documents.

Please reply to this office with the necessary information by 21 May 2025. If we do not hear from you within this time, the President may decide to reject the application.

No response was received.

6. On 26 June 2025, the Tribunal issued a further email to the Applicant in the following terms:-

We wrote to you on 7 May 2025 regarding your Applications for an Eviction

Order and a Payment Order.

We pointed out that the various errors in your Applications and the information required to allow us to process your Applications further. We suggested that you take legal advice. You have not replied.

Before moving to reject your Applications, we invite you to either deal with the following points or withdraw your Applications and start afresh. We strongly urge you to take legal advice as the tribunal cannot advise you.

FTS/HPC/CV/25/1625 – payment action

1. Please provide a rent statement showing rent due, rent paid and a running total of rent arrears.

FTS/HPC/EV/25/1623 – eviction action

1. The notice to leave provided does not have a date inserted at section 4. This is likely to invalidate the notice. If you have served a notice to leave that is properly completed, please provide a copy. If not, please consider withdrawing the application and serving another notice.

2. You have applied under Rule 66 which relates to assured tenancies. You have not carried out the statutory procedure for an assured tenancy. You must clarify the type of tenancy and evidence that the correct procedure has been followed. 3. You must submit a copy of the tenancy agreement or as much information as you can provide on the terms of the tenancy.

4. You must submit a rent statement showing rent due, rent paid and a running total of rent arrears.

5. You must a copy of a section 11 notice served on the local authority with evidence to show how and when it was served. 6. You should evidence compliance with the pre-action protocol for rent arrears.

7. The mortgage statement shows personal information such as the mortgage account number. All documentation is shared with the Respondent, so you may wish to consider withdrawing these and lodging redacted documents.

If you intend to continue with the applications, please reply with the necessary information by 18 July 2025 or your applications are likely to be rejected.

No response was received.

7. The Applicant has been given two opportunities to provide further information and has failed to do so. The Legal Member therefore 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.

Nicola Irvine
Legal Member
7 August 2025