



**DECISION AND STATEMENT OF REASONS OF JOSEPHINE BONNAR,  
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")**

**Case Reference: FTS/HPC/EV/25/0812**

**1R, 137 Cumbernauld Road, Stepps ("the property")**

**David Vlack, 4 Whittington Place, Gartcosh ("the Applicant")**

1. The Applicant seeks an order for possession of the property in terms of Rule 65 of the Rules and Section 18 of the Housing (Scotland) Act 1988 ("the 1988 Act"). A tenancy agreement, Notice to Quit, and Notice to leave were lodged with the application.
2. The Tribunal issued a request for further information and documents. The Applicant was advised that an AT6 notice was required and not a Notice to leave, which only applies to tenancies under the 2016 Act. The Applicant was also notified that the Notice to Quit appeared to be invalid as the date specified did not coincide with an ish date. The Applicant was directed to submit a valid AT6 and Notice to quit with evidence of service on the tenant.
3. The Applicant did not respond to the Tribunal's request or to reminders issued on 21 May and 10 July 2025.

**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".
- 7. The application is rejected for the following reasons:-
  - (a) The tenancy agreement lodged with the application states that the initial term of the tenancy is 31 March 2010 to 31 March 2011. The Notice to Quit calls upon the Respondent to vacate the property on 11 December 2023, which is not an ish. As a landlord cannot terminate the tenancy contract before the ish date, the Legal Member is satisfied that the Notice to quit is invalid.
  - (b) The Applicant has lodged a Notice to leave and not lodged an AT6 notice. A Notice to leave can only be used in connection with tenancies under the Private Tenancies (Scotland) Act 2016.

8. The Legal Member also notes that the Applicant has failed to respond to three requests for information and documents issued in terms of Rule 5(3) of the Tribunal Procedure Rules 2017.
9. For the reason outlined, 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.

## **Josephine Bonnar**

Josephine Bonnar, Legal Member

11 August 2025