

Housing and Property Chamber
First-tier Tribunal for Scotland



**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

70A Princes Street, Ardrossn KA22 8DF ("the Property")

Case Reference: FTS/HPC/CV/25/2288

Antonio O'Braonain, 70A Princes Street, Ardrossan KA22 8DF ("the Applicant")

1. The Applicant lodged form F under rule 70, application for civil proceedings in relation to an assured tenancy, dated 28 May 2025. At section 5(b) the Applicant stated that the reason for making the application was "*Threatening behavior. Harassment and intimidation. Not making reasonable or appropriate alternatives to my current situation and circumstances.*" At section 5(c) the Applicant stated that the order sought was "*To prevent...forced entry to my property when they have had over 10 days notice of my infection and the risk it causes to me and their employees if they enter my property.*" On 18 June 2025 the Applicant emailed the Tribunal providing further information and stated that he was leaving the Property on 8 July 2025. The Tribunal obtained a copy of the title to the Property and noted it was not held in the name of the Respondent named on the application.
2. On 2 July 2025 the Tribunal wrote to the Applicant noting that no copy tenancy agreement had been provided, that no explanation had been given as to the authority under which the Respondent was attempting to enter the property and stating that it was not clear that the tribunal had jurisdiction to grant the remedy sought. The Applicant did not reply to the email.

DECISION

3. 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.

- 4. 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

5. '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.

6. The Applicant failed to state a proper legal basis for the application being brought against the Respondent. 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.

Joan Devine

Joan Devine
Legal Member
5 August 2025