

**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

**20 Craigielaw Park, Aberlady, East Lothian, EH32 0PR ("the Property")**

**Case Reference: FTS/HPC/EV/25/1825**

**Mrs Christina Walters, Mr Stephen Walters (Applicant)**

1. The Applicant's representative submitted an application in terms of Rule 109 of the Rules on 29 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 3 June 2025, the Tribunal issued an email to the Applicant in the following terms:-

*I refer to your recent application which has been referred to the Chamber President for consideration.*

*Before a decision can be made, we need you to provide us with the following:*

1. *The notice to leave would appear to be invalid as an insufficient period of notice has been given. The period of notice for a tenancy of less than six months is 28 days plus 48 hours for service by email and the date to be inserted at part 4 of the notice to leave is the day after the 28 days plus 48 hours. Please now confirm that you are withdrawing the application as it cannot be accepted in these circumstances.*

*You may wish to take urgent advice before serving a further notice, particularly as the notice periods may be different for a tenancy of over 6 months duration. You should be aware of the following for any future application:*

*2. You have applied under grounds 1, 11 and 14, but the notice to leave is only served under grounds 1 and 11. If you intend to ask for permission to add grounds that are not included in a notice to leave, that is considered at the case management discussion if the application is accepted.*

*3. You would be expected to provide evidence to support each ground of eviction. Some examples of suitable evidence can be found in the relevant legislation.*

*4. You must provide a copy of the tenancy agreement when making such an application.*

*The Title Deed shows ownership to be in the name of only one of the Applicants. It is not clear how the other Applicant would have right, title or interest to make the application*

*Please reply to this office with the necessary information by 17 June 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 29 July 2025, the Tribunal issued a further email to the Applicant in the following terms:-

*I refer to your recent application which has been referred to the Chamber President for consideration.*

*On 3 June 2025, we sent you a letter setting out in detail the statutory position in respect of the validity of the Notice to Leave and other it. You have not replied.*

*Please now either submit the correct documentation or withdraw your application.*

*Please reply by 10 August 2025 or your application will be rejected and notice of this will be published on the tribunal website.*

*Please reply to this office with the necessary information by 10 August 2025. If we do not hear from you within this time, the President may decide to reject the application.*

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  
8 September 2025