



**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

Flat 3/2, 6 Muirpark Street, Partick, Glasgow G11 5NH ("the Property")

Case Reference: FTS/HPC/EV/24/1165

**George Marshall Hanlon, 2 Finglen Gardens, Milngavie G62 7RW ("the
Applicant")**

1. By Application lodged on 17 March 2025 the Applicant sought an order for eviction under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("2016 Act") and rule 109 of the Rules. The notice to leave provided in support of the application was lodged on 8 July 2025. It was undated and at part 4 stated that an application would not be made to the Tribunal before 8 August 2025.
2. By emails to the Applicant dated 4 June and 11 July 2025 the Tribunal noted that it appeared that the notice to leave upon which the application was based was not served before the application was submitted and therefore the application was unlikely to succeed. The Tribunal asked the Applicant if he wished to withdraw the application. By email dated 14 July 2025 the Applicant stated that he did not wish to withdraw the application.

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. In terms of rule 109 of the Rules an application for an eviction order requires to be

accompanied by a copy of the notice to leave given to the tenant as required under section 52(3) of the 2016 Act. In terms of section 54 of the 2016 Act a landlord may not make an application to the Tribunal for an eviction order against a tenant using a copy of a notice to leave until the expiry of the relevant period in relation to that notice. In terms of section 52(2) of the 2016 Act the Tribunal is not to entertain an application for an eviction order if it is made in breach of section 52(3) or section 54.

7. The application was lodged on 17 March 2025. The notice to leave upon which the Applicant relied was not provided to the Tribunal until 8 July 2025. It was undated. At part 4 of the notice to leave it stated that an application would not be submitted for an eviction order before 8 August 2025. The application was in breach of sections 52(3) and 54 of the 2016 Act. In those circumstances the Tribunal cannot entertain the application.
8. 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
Legal Member
5 August 2025