

**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

**3/10, 145 Albion Street, Glasgow, G1 1QS ("the Property")**

**Case Reference: FTS/HPC/EV/25/2166**

**Dr Batuhan Aktas (Applicant)**

1. The Applicant's representative submitted an application in terms of Rule 109 of the Rules on 24 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 23 June 2025, the Tribunal issued an email to the Applicant in the following terms:-

*A Legal Member has now considered your application. Before it can proceed you require to answer the following points:*

*1. The Notice to Leave which you have provided is dated 2nd May 2025 and states that a Tribunal application cannot be made before 31st May 2025. You lodged the application with the Tribunal on 20th May 2025, which is obviously before 31st May 2025. Please address the Tribunal, with reference to the law, as to why the Tribunal should accept the application lodged before the Notice to Leave has expired. You may wish to consider withdrawing the application and lodging a fresh one.*

*2. Please provide a copy of the notice required by section 11 of the*

*Homelessness etc (Scotland) Act 2003 and proof of service of the notice on the local authority.*

*3. If you wish to seek an order for payment of rent arrears you will need to submit Application Form F, available on the Tribunal's website, and it can run in tandem with the eviction application.*

*Please reply within 14 days or your application could be rejected.*

*Please reply to this office with the necessary information by 7 July 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.*

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

*The Tribunal notes that you have not replied to the request for further information sent to you on 23rd June 2025. Please reply by 14th August or your application is likely to be rejected. If you are not proceeding with the application at this time please have the courtesy to email the Tribunal confirming that it is to be withdrawn.*

*Please reply to this office with the necessary information by 14 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. *Section 54(1) of the Private Housing (Tenancies) (Scotland) Act 2016 provides that a landlord may not make an application to the First-tier 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. The Applicant submitted the present application before the expiry of the notice period.*
8. 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.

# N.Irvine

28 August 2025