

**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

207 Forge Street, Germiston, Glasgow, G21 2AR ("the Property")

Case Reference: FTS/HPC/EV/25/2415

Mrs Rosemary Silverman (Applicant)

1. The Applicant's representative submitted an application in terms of Rule 109 of the Rules date 5 June 2025 which was received on 6 June 2025. This application was considered together with a related application which proceeds under chamber reference FTS/HPC/CV/25/ 2416.

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 9 July 2025, the Tribunal issued an email to the Applicant's representative in the following terms:-

A legal member of the Tribunal has considered your applications. Before a decision can be made on whether the applications can proceed to a tribunal for full determination we require you to provide the following information:-

EV.25.2415

1 Please provide a written mandate from the applicant authorising you to represent her in the Tribunal application.

2 Please submit an amended Form E with the correct grounds for possession stated at Section 5. Please refer to schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 for the grounds that apply to private residential tenancies.

3 There are two tenants named on the tenancy agreement. A private residential tenancy cannot be terminated unless the eviction order is against both tenants. Please confirm if the joint tenant should be added as a joint respondent and provide her contact details.

4 An application for an eviction order must be accompanied by a notice to leave. Please provide a copy of the notice to leave and proof that this has been sent to both tenants, e.g. covering email or postal receipt and tracking information. If you have not given a notice to leave to the tenants, please consider withdrawing the application and submitting a new application once the notices have been sent to the tenants, and have expired.

5 Please provide a copy of the section 11 notice and proof that this has been sent to the local authority, e.g. covering email or postal receipt. Please note a section 11 notice is not the same as a notice to leave. It is a specific notice that landlords must give to the local authority when making an application for an eviction order.

6 Please provide a rent statement in a table that shows each rent due date, rent due, payments received, and a running balance of arrears, dating back to when the arrears began to accrue.

7 Please provide any evidence to support the grounds for possession. For ground 1, this may include a letter of engagement from a solicitor or estate agency regarding the sale of the property, or a recent home report.

CV.25.2416

8 Please provide a written mandate from the applicant authorising you to represent her in the Tribunal application.

9 Please provide an amended Form F with the complete address for the Respondent included at section 3.

10 Please provide a rent statement in a table that shows each rent due date, rent due, payments received, and a running balance of arrears, dating back to when the arrears began to accrue.

11 You have stated at section 5(c) of the Form F that you are seeking an order requiring the respondent to "leave the flat". Please note that Tribunal cannot make such an order in an application under Rule 111. Please amend section 5(c) to confirm the order that you are seeking.

Please read the above carefully and ensure you provide a response to all of the numbered points. You may wish to seek advice from a solicitor or estate agency if you require guidance with your application. The Tribunal cannot provide you with advice as we are an independent judicial body but there are details of advice agencies available under the

Useful Links section of our website.

Please reply to this office with the necessary information by 23 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 14 August 2025, the Tribunal issued a further email to the Applicant's representative in the following terms:-

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

It is noted that you have not responded to our request for further information which was sent to the email address provided in the application form. A copy is enclosed herewith. Please provide the requested information within fourteen days, or it is likely the applications will be rejected. Please confirm that the email address provided is correct.

If you no longer intend to progress the applications, it would be very helpful if you would confirm that you wish to withdraw them. Otherwise, it is likely that rejection decisions will be published on our website.

Please reply to this office with the necessary information by 28 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

14 September 2025