

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

109 Banff Road, Greenock PA16 OEN ("the Property")

Case Reference: FTS/HPC/CV/25/1033

**Accoutle Properties Ltd, Clamarpen, Gander Lane, Chesterfield S43 4PZ ("the
Applicant")**

1. The Applicant lodged form F under rule 111, application for civil proceedings, dated 10 March 2025 in terms of which the Applicant sought a payment order in respect of rent arrears. The Applicant also lodged an application in terms of which they sought an order for possession of the Property. That application was made against the same Respondent.
2. On 26 April 2025 the Applicant withdraw the application for an order for possession. On 6 July 2025 the Applicant advised the Tribunal that the Respondent had vacated the Property on 14 May 2025. On 6 August 2025 the Tribunal asked the Applicant to provide an address for the Respondent. On 22 August 2025 the Applicant advised they did not have an address for the Respondent. On 26 August 2025 the Tribunal provide the Applicant with a link to the form to apply for service by advertisement. The Applicant did not complete the application or reply to the Tribunal. The Tribunal sent follow up emails on 25 September and 21 October 2025. No reply was received.

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.

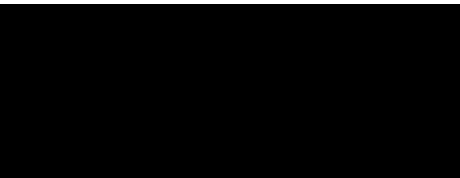
6. The Applicant did not provide an address for the Respondent nor did they apply for service by advertisement. The application cannot proceed if it cannot be served on the Respondent. In all the circumstances, the Legal Member determines that the Application is frivolous, misconceived and has no prospect 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
Legal Member

11 November 2025