

**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

23 Burnside, Prestonpans, East Lothian, EH32 9DW ("the Property")

Case Reference: FTS/HPC/EV/25/1732

Methodist Ministers Housing Society (Applicant)

1. The Applicant's representative submitted an application in terms of Rule 109 of the Rules on 22 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 9 July 2025, the Tribunal issued an email to the Applicant's representative in the following terms:-

A legal member of the Tribunal with delegated powers of the Chamber President has considered the application and has commented as follows:

1. The notice of title you have produced shows the proprietor as East Lothian District Council. Please provide evidence that the applicant has title to sell the property.

Please respond within 14 days. Upon receipt of the above information, a decision can then be taken on whether the application is valid and whether they should be accepted and referred to the tribunal for full determination. If you fail to provide the necessary information the tribunal may reject your application.

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.

The Applicant's representative responded by email on 15 July 2025 asking what document the Tribunal was referring to.

6. On 22 July 2025, the Tribunal issued a further email to the Applicant's representative in the following terms:-

Please be advised, we have obtained a copy of the title from Registers of Scotland and it indicates that the Applicant is not the heritable proprietor. Given that ground 1 is being relied upon, please provide evidence of ownership by the Applicant.

No response was received.

7. The Applicant has been given 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
12 August 2025