



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 8(1)(a) of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/25/3048

Re: Property at 6 Edmonton Avenue, Livingston, EH54 6BH (“the Property”)

Parties:

Mrs Lesley Balaj, The Manse, Charlesfield Lane, Livingston, EH54 7AJ (“the Applicant”)

Tribunal Members: Ruth O’Hare, Legal Member with delegated powers from the Chamber President

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application received by it on 16 July 2025 is frivolous and should therefore be rejected under Rule 8(1)(a) of the Rules.

Background

- 1 This is an application for an eviction order under rule 66 of the Rules and section 33 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Applicant sought an eviction order on the basis that the short assured tenancy between the parties had been terminated.
- 2 In terms of Rule 5(2) of the Rules a Legal Member with delegated powers from the Chamber President reviewed the application to assess whether it had been lodged in the required manner. As part of the review process, the Tribunal wrote to the Applicant on 13 August 2025 in the following terms:-

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

- 1 *A written mandate from the applicant authorising you to represent her in the application before the Tribunal.*

- 2 *The term of the tenancy was from 1 September 2012 to 2 March 2013, and monthly thereafter. It appears therefore that the ish date is the 2nd of the month. Can you please explain the legal basis upon which you believe the 1 June 2025 is a valid ish date?*
- 3 *Please provide the tracking information from Royal Mail confirming delivery of the notices to the tenant.*

Please reply to this office with the necessary information by 19 August 2025. If we do not hear from you within this time, the President may decide to reject the application.”

- 3 On 15 August 2025 the Tribunal received an email from the Applicant's representative, Almond Lettings, to advise that they were “*withdrawing the notice due to an error with the issue date. A new Notice to Quit will be reissued shortly.*”
- 4 On 2 September 2025 the Tribunal responded to the Applicant's representative asking them to confirm if they were withdrawing the application. The Tribunal advised the Applicant's representative that if they were relying upon a new notice to quit, they would require to submit a new application once the notice to quit had expired. The Tribunal requested a response no later than 16 September 2025.
- 5 No response was received from the Applicant's representative.

Reasons for decision

- 6 Rule 8(1)(a) of the Rules allows an application to be rejected by the Chamber President if “they consider that an application is vexatious or frivolous”. “Frivolous” in the context of legal proceedings is defined by Lord Justice Bingham in R-v- North West Suffolk (Mildenhall) Magistrates Court (1998) Env.L.R.9. At page 16 he states:- “What the expression means in this context is, in my view, that the court considers the application to be futile , misconceived, hopeless or academic”.
- 7 I consider that this application is frivolous or vexatious and has no reasonable prospect of success in its current form. Section 33 of the 1988 Act states that the Tribunal may make an eviction order in relation to a short assured tenancy in circumstances where “*the short assured tenancy has reached its finish*” and “*tacit relocation is not operating*”. In this case the notice to quit produced with the application does not terminate the short assured tenancy at its finish, thereby preventing the operation of tacit relocation. The provisions of section 33 cannot therefore be met. The Applicant, via their representative, has conceded the error in the notice to quit. The application is therefore futile and has no prospects of success. On that basis it must be rejected under rule 8(1)(a) of the Rules.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal 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.

Ruth O'Hare

24 October 2025

Legal Member/Chair

Date