



**DECISION AND STATEMENT OF REASONS OF ALISON KELLY, 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

168F Glenhouse Road, Cumbernauld, G67 2LE ("the Property")

Case Reference: FTS/HPC/EV/25/4991

Asim Iqbal ("the Applicant")

1. The Applicant seeks an eviction order in terms of Rule 109 of the Rules and Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act"). The Applicant lodged a tenancy agreement, Notice to Leave, AT5, AT6, Section 33 Notice and Notice to Quit in support of the application. The tenancy commenced on 10th November 2016 and is a short assured tenancy. The initial term of the tenancy was from 10th November 2016 to 10th May 2017 and monthly thereafter. The Notice to Quit seeks to bring the tenancy to an end as at 27th October 2025. The AT6 cites a ground that the Applicant wishes to sell the property.

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.

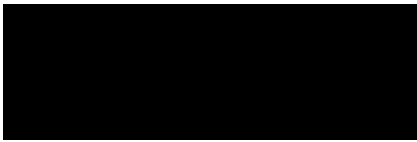
5. The tenancy is a Short Assured Tenancy and is subject to the Housing (Scotland) Act 1988, and therefore the application cannot be brought under Rule 109, which applies to Private Residential Tenancies under the Private Housing (Tenancies)(Scotland) Act 2016.
6. Schedule 5 of the 1988 Act contains the grounds for eviction applicable to Assured Tenancies. There is no ground in relation to wishing to sell the property.
7. Section 33 of the 1988 Act allows a Short Assured Tenancy to be brought to an end by serving a Notice to Quit and a section 33 Notice. The Notice to Quit must bring the tenancy to an end at an ish date. The Notice to Quit seeks to bring the tenancy to an end as at 27th October 2025. The original tenancy tacitly relocates on a monthly basis. 27th October is accordingly not an ish date.
8. 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.



Alison Kelly
Legal Member
8th December 2025