

**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

**50 Leys Park, Dunfermline, KY12 0AA ("the Property")**

**Case Reference: FTS/HPC/EV/25/4491**

**Mrs Lynda Trainer ("the Applicant")**

1. The Applicant submitted an application for an eviction order in terms of Rule 66 of the Rules and Section 18 of the Housing (Scotland) Act 1988 ("the 1988 Act"). In support of the application, the Applicant lodged a copy of the tenancy agreement, form AT5, Notice to Quit, Notice in terms of section 33 of the Housing (Scotland) Act 1988, and section 11 notice served on the local authority.

**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 8 December 2025, the Tribunal sent an email to the Applicant's representative advising that the Notice to Quit specified a date which was not an ish date and was therefore invalid. The Tribunal sought confirmation that the application was to be withdrawn.
6. The Applicant's representative responded by email on 15 December 2025 advising that they wished to proceed with the application, but the response did not address the issue of the invalid Notice to Quit.

7. The Application is not supported by a valid Notice to Quit, nor a valid Notice of Proceedings as required by section 19 of the 1988 Act. The term of the tenancy agreement was for 12 months from 1 July 2011. There was no other provision in the agreement about the term of the tenancy. The ish date is therefore 1 July each year and the tenancy has been renewed by tacit relocation each year. The notice to quit and notice of proceedings state that the Applicant requires vacant possession as at 1 August 2025. This was not an ish date and the notice to quit is therefore invalid. In these 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.

## **Nicola Irvine**

Nicola Irvine  
Legal Member  
16 January 2026