

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

1 Hillhead Of Fechil, Ellon, Aberdeenshire, AB41 8NR ("the Property")

Case Reference: FTS/HPC/CV/25/4062

Hillhead & Newton Frms (Applicant)

1. The Applicant's representative submitted an application in terms of Rule 111 of the Rules on 19 September 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 24 October 2025, the Tribunal issued an email to the Applicant's representative in the following terms:-

A legal member of the First-tier Tribunal with delegated powers of the Chamber President considers that in order for the Tribunal to be able to process your application further the undenoted information /documentation is required:

- 1. Please clarify who the application for service by advertisement relates to. It mentions both Mr Stuart and Miss Henderson but a new address appears to have been provided for Mr Stuart.*
- 2. Please clarify the identity of the Applicant. The name of the landlord in the tenancy agreement is stated as Hillhead and Newton Farms but the landlord registration refers to DJA and EJB Galloway and the title*

deeds for the property do not appear to show Hillhead and Newton Farms as the property owners. Please provide evidence of ownership or title and interest to make the application for the Applicant and, if you consider this is the correct Applicant, please amend the application to show the correct name.

3. Please clarify the name of the relevant property. This is stated as 1 Hillhead of Fechil Cottages, Ellon in the tenancy agreement but as 1 Hillhead of Fechil Ellon in the application.

4. Please amend the application to show the address for Miss Henderson as unknown rather than the property address if she is no longer resident there.

5. Please provide invoices to support the individual repair items.

6. Please provide written authorisation of the agent by the Applicant. Please provide the information no later than 7 November 2025. Upon receipt of the information a Legal Member will consider your response and may seek further information from you before a decision is made on whether your application can proceed.

In the absence of a response your application may be rejected without further notice. You may wish to consult a solicitor or advice agency if you require further guidance regarding your application. The Tribunal cannot provide you with legal advice but there are details of advice agencies under the Useful Links section of the Tribunal website.

No response was received.

6. On 27 November 2025, the Tribunal issued a further email to the Applicant's representative in the following terms:-

A legal member of the First-tier Tribunal with delegated powers of the Chamber President considers that in order for the Tribunal to be able to process your application further the undernoted information /documentation is required:

• Information and documentation was requested from you on 24.10.2025. A copy of the previous request for further information is attached. Please reply to this now as a matter of urgency. Should no reply be received, the Tribunal will reject the application.

Please provide the information no later than 11 December 2025. Upon receipt of the information a Legal Member will consider your response and may seek further information from you before a decision is made on whether your application can proceed. In the absence of a response your application may be rejected without further notice.

No response was received.

7. The Applicant has been given two 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
16 January 2026