

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

331A High Street, Kirkcaldy, KY1 1JL ("the Property")

Case Reference: FTS/HPC/EV/25/4185

WGS Developments Ltd (Applicant)

1. The Applicant submitted an application in terms of Rule 109 of the Rules on 30 September 2025. The Applicant produced supporting documents, one of which was a document entitled "Notice to Leave (Ground 12 Rent Arrears)".

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 19 December 2025, the Tribunal issued a letter to the Applicant in the following terms:-

Thank you for your recent application which has been reviewed by a Legal Member of the Tribunal with delegated powers of the President. Please provide the following further information :

1. The Tribunal raised a query regarding the format of the notice to leave served. You have responded stating that your view is that the notice served meets the requirements of the legislation. You also state that if the Tribunal disagrees you will serve a fresh notice. The Tribunal is an independent judicial body which cannot give legal advice. Please state whether (a) you wish the application to proceed in which case the Tribunal will determine in due course whether or not the notice to leave

is compliant or (b) you wish to withdraw the application and serve a fresh notice.

On 19 December 2025, the Tribunal received an email from the Applicant in the following terms:-

I confirm that I wish the application to proceed and invite the Tribunal to determine in due course whether the Notice to Leave relied upon is compliant with the relevant statutory requirements.

6. The Tribunal considered the terms of section 62(1) of the Private Housing (Tenancies) (Scotland) Act 2016 and Regulation 6 of the Private Residential Tenancies (Prescribed Notices and Forms) (Scotland) Regulations 2017, which provide as undernoted. The terms of Regulation 6 are mandatory, in that it provides that the notice to leave **must** be in the form set out in schedule 5. The notice to leave produced by the Applicant is not in the form set out in schedule 5 and is therefore not valid. The Legal Member therefore determines that the application is frivolous, misconceived and has no prospect of success. The application is rejected on that basis.

Section 62 - Meaning of notice to leave and stated eviction ground

- (1) *References in this Part to a notice to leave are to a notice which—*
 - (a) *is in writing,*
 - (b) *specifies the day on which the landlord under the tenancy in question expects to become entitled to make an application for an eviction order to the First-tier Tribunal,*
 - (c) *states the eviction ground, or grounds, on the basis of which the landlord proposes to seek an eviction order in the event that the tenant does not vacate the let property before the end of the day specified in accordance with paragraph (b), and*
 - (d) *fulfils any other requirements prescribed by the Scottish Ministers in regulations.*

Regulation 6

6. *A notice to leave given by the landlord to the tenant under section 50(1)(a) (termination by notice to leave and tenant leaving) of the Act must be in the form set out in schedule 5.*

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
27 January 2026