

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

G/1 9 Upper Grove Place, Edinburgh, EH3 8AY ("the Property")

Case Reference: FTS/HPC/CV/25/3949

Ms Hanna Zharova (Applicant)

1. The Applicant submitted an application in terms of Rule 111 of the Rules dated 15 September 2025 which was sent by email on 16 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 7 November 2025, the Tribunal issued an email to the Applicant's representative in the following terms:-

"A Legal Member of the Tribunal with delegated powers from the Chamber President has reviewed your application and your further response dated 13 October 2025 but has requested the following further information:-

• You were asked to explain the legal basis of your claim for repayment of rent paid by you in relation to the tenancy. However, please note that the lack of a Landlord Registration, whilst a criminal offence, does not entitle a tenant to repayment of rent. You mention a 'rent reduction order' and also the 2006 Act but please note that a 'rent restriction order' is only available under that legislation if the tenant has obtained a

Repairing Standard Enforcement Order against the landlord, which the landlord has then not complied with. It is sometimes possible for tenants to have claims against a landlord for repayment of a proportion of the rent paid, based on the condition of the property. It is recommended that you consider seeking some advice in relation to this matter from a solicitor or housing advisory service and, if appropriate, then amend your application to state the correct legal basis for the remedy you are seeking. You would, however, have to provide supporting evidence with such an application, such as proof of the condition of the property over the relevant period of the tenancy.

Please respond within 21 days to clarify the position and allow the application to be further considered.”

Please reply to this office with the necessary information by 28 November 2025. If we do not hear from you within this time, the President may decide to reject the application.

No response was received.

6. On 16 December 2025, the Tribunal issued a further email 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 sought further information by email dated 7 November 2025. You have not replied. Please now provide the information requested failing which your application will be rejected.

Please reply to this office with the necessary information by 30 December 2025. If we do not hear from you within this time, the President may decide to reject the application.

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

27 January 2026