



**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")**

Case reference FTS/HPC/EV/25/4247

Parties

Shitala Singh (Applicant)

2/2 34 Lethamhill Road, Glasgow, G33 2SE (Property)

1. On 3rd October 2025 the Applicant lodged an application seeking an order for eviction in terms of Rule 109 of the Rules. The Tribunal wrote to the Applicant on several occasions seeking various documents, which the Applicant provided.
2. In support of the Application, raised using Ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the Act"), the Applicant lodged a Notice to Leave which was dated 29th August 2025, and stated that an application would not be made to the First tier Tribunal before 24th September 2025. The Applicant lodged proof of posting and a Royal Mail tracking receipt showing that the Notice to Leave was delivered to the Respondents on 4th September 2025.

DECISION

3. 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.

4. 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

5. '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.
6. Section 54 of the Act deals with notice periods and states as follows:
 - (1) *A landlord may not make an application to the First-tier Tribunal for an eviction order against a tenant using a copy of a notice to leave until the expiry of the relevant period in relation to that notice.*
 - (2) *The relevant period in relation to a notice to leave—*
 - (a) *begins on the day the tenant receives the notice to leave from the landlord, and*
 - (b) *expires on the day falling—*
 - (i) *28 days after it begins if subsection (3) applies,*
 - (ii) *84 days after it begins if subsection (3) does not apply.*
 - (3) *This subsection applies if—*
 - (a) *on the day the tenant receives the notice to leave, the tenant has been entitled to occupy the let property for not more than six months, or*
 - (b) *the only eviction ground, or grounds, stated in the notice to leave is, or are, one or more of the following—*
 - (i) *that the tenant is not occupying the let property as the tenant's home,*
 - (ii) *that the tenant has failed to comply with an obligation under the tenancy,*
 - (iii) *that the tenant has been in rent arrears for three or more consecutive months,*
 - (iv) *that the tenant has a relevant conviction,*
 - (v) *that the tenant has engaged in relevant anti-social behaviour,*
 - (vi) *that the tenant associates in the let property with a person who has a relevant conviction or has engaged in relevant anti-social behaviour.*

(4) The reference in subsection (1) to using a copy of a notice to leave in making an application means using it to satisfy the requirement under section 52(3).

The tenancy agreement shows that the tenancy began on 15th May 2024. The Respondents had therefore been in occupation for more than six months when the Notice to leave was served. The grounds of eviction being relied upon are Grounds 12 and 14. This means that the notice period is determined in terms of sub section (3)(b) and should be 28 days.

7. In this case the notice was delivered on 4th September 2025 and expires on 24th September 2025. 28 days' notice has not been given and therefore the Notice to Leave is defective and the application cannot proceed.

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
26th January 2026