

**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

**3 Tynley Road, Paisley, PA1 3JP ("the Property")**

**Case Reference: FTS/HPC/EV/25/4525**

**Mr Kulwant Lally (Applicant)**

1. The Applicant submitted an application in terms of Rule 109 of the Rules dated 9 October 2025 which was sent by email on 20 October 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 19 December 2025, the Tribunal issued an email to the Applicant's representative in the following terms:-

*"Your application has been further reviewed by a legal member of the First-tier Tribunal with delegated powers of the Chamber President who has raised the following matters Your email of 25 November 2025 is acknowledged and has been considered.*

*The tribunal does not intimate any application to respondents until the application has been accepted by the tribunal. This application has not yet been accepted as the information requested in our previous correspondence has not been received.*

*The tribunal cannot offer any advice to you on whether the tenant has now removed. That is a matter for you to ascertain.*

*Please confirm that you now wish to withdraw this application or provide the information previously requested to allow the tribunal to continue to consider it.*

*Further queries may arise upon receipt of your reply. Please respond to this letter within the next two weeks.*

*Upon receipt of the above information, a final decision can then be taken on whether the application is valid and whether it should be accepted and referred to the tribunal for full determination. The tribunal would suggest that you may find it useful to seek independent legal advice on this application, the matters contained in this letter and any further action which you wish to take.*

*If you fail to respond to this letter then the tribunal may reject your application.”*

No response was received.

6. On 30 January 2026, the Tribunal issued a further email to the Applicant's representative in the following terms:-

*“We refer to our previous emails regarding this application, in particular our email of 14 November 2025, attached. We do not appear to have received the requested information which is necessary before a decision can be made on whether the application can progress.*

*We will allow you a final opportunity to provide the information or alternatively confirm that the application can be withdrawn. Please respond no later than 13 February 2026. Please note if you fail to respond your application will likely be rejected by the Chamber President and a decision published on the Tribunal's website.*

*Residential tenancies can be complex and we would strongly encourage you to seek independent legal advice if you require guidance with your 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  
Legal Member  
13 March 2026