

Decision with Statement of Reasons of H Forbes, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber)

Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules")

Chamber Ref: FTS/HPC/EV/25/5026

Re: 15 Academy Court, Irvine, KA12 8RB ("the Property")

Parties:

Kris Hughes ("the Applicant")

Emily McDicken ("the Applicant Representative")

Tribunal Member:

H Forbes (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be rejected on the basis that the application is frivolous in terms of Rule 8(1)(a) of the Procedural Rules and the Tribunal has good reason to believe it would not be appropriate to accept the application in terms of Rule 8(1)(c) of the Procedural Rules.

Background

1. The application form was received by the Tribunal under Rule 109 on 21st November 2025 with associated documents.
2. The application was considered by a Legal Member with the delegated authority of the Chamber President. Further information was requested from the Applicant on several occasions, including evidence of service of the notice to leave required under section 62 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the Act"). The Applicant provided a semi-legible WhatsApp message to the Respondent that mentioned a notice to leave. The Applicant was informed that this was not a valid method of service of the notice to leave and was asked to provide further evidence of a valid method of service. The Applicant did not respond.
3. The Applicant was informed by email dated 5th May 2026 that a failure to provide the requested documentation within 3 weeks was likely to result in rejection of the application. No response was received.

Decision

4. The Tribunal 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;·

...

(c) they have good reason to believe that it would not be appropriate to accept the application;

(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."

5. On consideration of the above test, the Tribunal considers that this application is frivolous, and there is good reason to believe it would not be appropriate to accept the application.

Reasons for Decision

6. No evidence has been provided to show that the notice was served by WhatsApp as there is no indication of an attachment in the information provided. In any event, WhatsApp is not a valid method of service for a notice to leave, in terms of section 25 of the Interpretation and Legislative Reform (Scotland) Act 2010, which provides that service must be carried out by personal delivery, registered post, or email where explicit written consent to the same has been given. The Applicant has made no representations to indicate that they intend to show that WhatsApp is a valid method of service.
7. The Applicant has failed to respond further despite being afforded repeated opportunities to do so.
8. The application is frivolous and it would not be appropriate to accept the application. The application is rejected.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal 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.

Helen Forbes

Legal Member/Chair

10th June 2026
Date