



**DECISION AND STATEMENT OF REASONS OF JOAN DEVINE, 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

117 Langside Avenue, Uddingston G71 6LF ("Property")

Case Reference: FTS/HPC/EV/26/0855

Almas Sarwar, 17 Bothwell Road, Uddingston G71 6LF ("Applicant")

**Empire Property, 2 Stewarton Street, Wishaw ML2 8AN ("Applicant's
Representative")**

1. The Applicant sought an order for possession of the Property in terms of Rule 109 of the Rules and Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 ("2016 Act"). The Applicant lodged form E dated 20 February 2026. The Applicant lodged no supporting documents.
2. By email dated 13 March 2026 the Tribunal sought essential supporting documents including a copy of the notice to leave and evidence of service thereof; a copy of the section 11 notice and evidence of service thereof; a copy of the tenancy agreement; clarification of the identity of the Applicant as the title to the property was held in joint names and documentation supporting the ground for eviction. No response was received. The request for further information was followed up on 15 May 2026. No response was received.

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 documents lodged 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 Procedural 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. The Applicant seeks recovery of possession of property let under a private residential tenancy. In terms of section 52(3) of the 2016 Act and rule 109 an application to the First-tier Tribunal for an eviction order against a tenant must be accompanied by a notice to leave which has been given to the tenant. Rule 109 also provides that an application must be accompanied by evidence that the eviction ground has been met and a copy of the section 11 notice. The Applicant did not lodge the documents required by the 2016 Act and Rule 109. In these circumstances, the Legal Member 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.

Joan Devine, Legal Member
30 June 2026