



**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

G/L 50 Bangorshill Street, Glasgow G46 8LU ("the Property")

Case Reference: FTS/HPC/RP/26/3970

Scott Prior, 3/3 15 Hawick Court, Glasgow G13 4DW ("the Tenant")

1. The Tenant lodged form A under rule 48, application for determination of whether the landlord has failed to comply with the repairing standard, dated 24 August 2026. In the Application the Tenant stated that they had lived in the Property between 2019 and August 2025. The Landlord information provided indicated that the Landlord was a housing association. No copy tenancy agreement was provided.
2. On 27 August 2026 the Tribunal emailed the Tenant pointing out that if the landlord was a housing association then the tenancy would have been a Scottish Secure Tenancy governed by the Housing (Scotland) Act 2001. The Tribunal noted that the Housing (Scotland) Act 2006 stated that the repairing standard applies to a house let for human habitation unless it is a Scottish Secure Tenancy (section 12(1)) which meant that the repairing standard did not apply to the tenancy in this case. The Tribunal also noted that the Tenant had removed from the property in August 2025 and that an application under rule 48 requires to be brought by a person who is currently a tenant of the property. The Tribunal asked the Tenant to provide evidence that the tenancy was not a Scottish Secure Tenancy and that the tenancy was ongoing or alternatively the Tribunal asked the Tenant to withdraw the application. The Tenant did not

provide the evidence requested. The Tenant did not withdraw the application.

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 Tenant did not provide evidence that the tenancy was not a Scottish Secure Tenancy nor did the Tenant provide evidence that the tenancy was ongoing. As the tenancy does not appear to be one to which section 22 of the Housing (Scotland) Act 2006 applies and as the tenancy is not ongoing, 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

22 September 2026