



**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

111 O'Hare, Bonhill, Alexandria G83 9DU ("Property")

Case Reference: FTS/HPC/EV/26/0806

Gerard Ward, 53 Strathleven Drive, Alexandria G83 9PG ("Applicant")

**Philpott Platt Niblett and Wight, 105 Glasgow Road, Dumbarton G82 1RE
("Applicant's Representative")**

1. The Applicant sought an order for possession of the Property in terms of Rule 65 of the Rules and Section 18 of the Housing (Scotland) Act 1988 ("1988 Act"). The Applicant lodged form E dated 17 February 2026. Documents lodged in support of the application included a tenancy agreement for the period 13 March 2015 to 13 September 2015 and month to month thereafter; form AT5; a section 33 notice dated 18 November 2025 which sought possession on 20 January 2026; a notice to quit dated 18 November 2025 which did not contain an ish date and a form AT6 dated 18 November 2025 which stated that possession was ought under ground 1 of schedule 5 to the 1988 act and that proceedings would not be raised for 2 months.
2. By email dated 10 March 2026 the Tribunal sought clarification of whether the Applicant wished to proceed under rule 65 or rule 66 and a copy of the notice served at the beginning of the tenancy as required by ground 1. The Tribunal also noted that no ish dated was stated in the notice to quit and requested a submission regarding the validity of the notice to quit. No response was received. The Tribunal followed up the request for further information on 30

April and 11 June 2026. The Applicant's Representative responded by email dated 3 July 2026 asking if a response could be submitted. The Tribunal confirmed that it could. The Tribunal again followed up the request for further information on 23 July and 26 August 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 the 1988 Act. It was unclear whether the Applicant wished to proceed under rule 65 or 66. An application under rule 65 requires to be accompanied by evidence to support the ground on which possession is sought. This was not provided. An application under rule 66 requires to be accompanied by a valid notice to quit. This was not provided. 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

Joan Devine, Legal Member

14 October 2026