



**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

26 D/L Loanhead Street, Kilmarnock KA1 3AU ("Property")

Case Reference: FTS/HPC/CV/26/2272

**Chris Telfer, Flat 5 Queens Park Penthouse, 105-109 Salusbury Road, Queens
Park, London NW6 6RG ("Applicant")**

1. The Applicant sought an order for payment of £1300 under Rule 70 of the Rules. The Applicant lodged form F dated 11 May 2026. Documents lodged in support of the application included a tenancy agreement between the Applicant and the Respondent which commenced on 8 November 2024.
2. As part of Tribunal procedure, a copy of the title for the property subject to each application is obtained. The title obtained indicated that the Property was owned by someone other than the Applicant. By email dated 11 June 2026 the Tribunal requested further information including proof of ownership of the Property. The Applicant responded by providing a further copy of the tenancy agreement. By emails dated 28 July and 3 September 2026 the Tribunal again requested evidence of ownership of the Property. No response was received.
3. a copy of the tenancy agreement and a list of dates, times and details of alleged harassment by the respondent along with copies of any relevant emails or text messages. No response was received. The Tribunal followed up the request for further information on 28 July and 3 September 2026. No response was received.

DECISION

4. 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.

- 5. 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

6. '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.

7. The Applicant seeks orders under rule 70 which requires that the application be accompanied by evidence to support the application. The Applicant did not provide evidence that they were entitled to grant a tenancy for the Property and therefore that they had title and interest to make the application. 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
14 October 2026