Housing and Property Chamber
First-tier Tribunal for Scotland

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

9 Orchardfiled Avenue, Corstorphine, Edinburgh EH12 7SX ("the Property")

Case Reference: FTS/HPC/PR/25/4902

Douglas Ramsay and Sarah Paulin, 16 Pentland Avenue, Currie, Edinburgh EH14 5QD ("the Applicant")

1. The Applicant lodged an application under rule 110 (application for a wrongful termination order) dated 11 November 2025. In the application the address for the Respondent was not provided. In the application the Applicant stated that they had vacated the Property after receiving a notice to leave which stated that the Respondent intended to sell the Property. The Applicant stated that after they vacated the Property it was marketed to let.

2. By email dated 3 December 2025 the Tribunal asked for an address for the Respondent and evidence to support the application as title to the Property indicated that it was no longer held by the Respondent. By email dated 31 December 2025 the Tribunal explained to the Applicant the ability to serve the application by advertisement and that such an application required to be accompanied by a negative trace report. This was followed up on 21 February 2026. On 2 April 2026 the Applicant lodged an application for service by advertisement but did not provide a negative trace report. On 7 May 2026 the Applicant emailed the Tribunal providing an address for the Respondent care of Professional Property Letting Ltd. The Applicant had previously provided

documentation indicating that Professional Property Letting Ltd were no longer managing the Property. By email dated 8 June 2026 the Tribunal again requested an address for the Respondent or a negative trace report to support an application for service by advertisement. The Applicant responded asking the Tribunal to reconsider its position. By email dated 28 July 2026 the Tribunal told the Applicant that a negative trace report was required when service by advertisement was being requested. The Tribunal also noted that the information provided by the Applicant was that the Property was sold in October 2025. The Tribunal sought clarification as to why it was the Applicant considered they had been misled into vacating the Property. This email was followed up on 31 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 sought an order under rule 110 which relates to wrongful termination orders in respect of tenancies under the 2016 Act. The Applicant did not provide an address for the Respondent. An application for service by advertisement was lodged but was not accompanied by a negative trace report. No evidence was lodged showing that the tenancy was wrongfully terminated. In all the 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, 16 October 2026