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

84 Coltswood Road, Coatbridge ML5 2AB ("the Property")

Case Reference: FTS/HPC/PR/26/3532

Tracy Fulton, 83 Montgomery Avenue, Coatbridge ML4 1QT ("the Applicant")

1. The Applicant lodged form G under rule 103 (application for order for payment where landlord has failed to carry out duties in relation to tenancy deposits) dated 30 July 2026.

2. On 3 August 2026 the Tribunal emailed the Applicant. The Tribunal noted that the Applicant had lodged form G under rule 103 which relates to applications for compensation where a landlord has failed to comply with the obligations under the Tenancy Deposit Schemes (Scotland) Regulations 2011 ("2011 Regulations"). The Tribunal noted that in terms of section 9 of the 2011 Regulations an application for payment of compensation must be made no later than 3 months after the tenancy ended. The Tribunal asked for a copy of the tenancy agreement and for confirmation of the date on which the tenancy ended along with evidence thereof. No response was received. The Tribunal followed up the request for further information on 3 September and 1 October 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 103. In terms of regulation 9 of the 2011

Regulations such an application must be made within 3 months of the tenancy ending. Rule 103 states that an application under rule 103 must be accompanied by a copy of the tenancy agreement (if available) and evidence of the date on which the tenancy ended (if available). The Applicant did not provide this information or an explanation as to why it was not available. In the absence of any information regarding the tenancy end date, the Tribunal could not determine whether the application was made within 3 months of the tenancy end date. 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

22 October 2026