



**Decision with Statement of Reasons of Alan Strain, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules")**

**Chamber Ref: FTS/HPC/CV/21/1614**

**Re: Fraser's House, Lighthouse Cottages, Rattray, Peterhead, Aberdeenshire, AB42 3HA ("the Property")**

### **Parties**

**Mr John Francis Dellow (Applicant)**

**Mr Robert Keeble (Respondent)**

**Tribunal Member:**

**Alan Strain (Legal Member)**

### **Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be dismissed on the basis that it is frivolous within the meaning of Rule 8(1)(a) of the Procedural Rules and that it would not be appropriate to accept the application in terms of Rule 8(1)(c).**

### **Background**

1. The application was received by the Tribunal under Rule 111 on 6 July 2021.
2. The application was considered by the Tribunal and further information was requested by letter of 22 July 2021. The Applicant was asked to:

*"Before a decision can be made, we need you to provide us with the following: (1) Please provide written authorisation from the joint tenant of the property to this application being made in your sole name; or amend the application to add a second applicant. (2) Please provide a copy of the tenancy agreement (3) In Section 5(b), the legal basis for the various heads of claims is unclear. Please amend Section 5 by providing a paper apart clearly setting out the legal basis of each element of the claim*

*under Section 111. Please note applications under Section 111 are for civil proceedings in connection with private residential tenancies and that the tribunal's jurisdiction does not extend to criminal matters. (4) In Section 5(c), you have not specified the amount you are seeking for overcharging for oil. Please amend the application to state the amount sought for this head of claim. Similarly, there is no specification of the remedies you are seeking for any of the other heads of claim. Please amend the application by providing a paper apart clearly setting out the remedy you are seeking for each head of claim. (5) You have produced documentary evidence in relation to your claim for overcharging for oil. However, you have not provided any supporting evidence provided for harassment, falsifying documents, misrepresentation, concealment, harassment, blackmail and threatening behaviour. If you wish to insist on any of these heads of claim and you amend the application to fully specify the legal basis for the claim and remedies sought, please provide supporting evidence. All documents provided should be numbered and included on a list of documents for ease of reference. Please reply to this office with the necessary information by 5 August 2021. If we do not hear from you within this time, the President may decide to reject the application."*

3. No response was received. The Tribunal wrote again on 24 August 2021 in the following terms:

*"Before a decision can be made, we need you to provide us with the following: Please provide a response to the previous further information request. Please reply to this office with the necessary information by 7 September 2021. If we do not hear from you within this time, the President may decide to reject the application."*

No response was received.

### **Reasons for Decision**

4. The Tribunal 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;·  
(c) they have good reason to believe that it would not be appropriate to accept the application;*

*(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. 'Frivolous' in the context of legal proceedings is defined by Lord Justice Bingham in ***R v North West Suffolk (Mildenhall) Magistrates Court, (1998)***

**Env. L.R. 9.** At page 16, he states: - *“What the expression means in this context is, in my view, that the court considers the application to be futile, misconceived, hopeless or academic”.*

6. The Applicant failed to provide necessary information to the Tribunal. The Tribunal could not grant the order sought.

7. Applying the test identified by Lord Justice Bingham in the case of ***R v North West Suffolk (Mildenhall) Magistrates Court*** (cited above) the application is frivolous, misconceived and has no prospect of success. Furthermore, the Tribunal consider that there is good reason why the application should not be accepted. The application is accordingly rejected.

### **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal 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.**



**23 September 2021**

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**Legal Member/Chair**

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**Date**