



**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

34 Glenside Road, Port Glasgow PA14 5TW ("the property")

Case Reference: FTS/HPC/PR/23/0969

Mr Ipinyomi Tafa, 34 Glenside Road, Port Glasgow PA14 5TW ("the Applicant")

Atoms Property Management Ltd ("the Respondent")

1. The Applicant seeks an order for payment of £510 in terms of Rule 103 of the Rules. A copy of a private residential tenancy agreement, rent receipts, agency agreement and copy text messages were lodged in support of the application.
2. The Tribunal issued a request for further information on 31 March 2023 to the Applicant, directing the Applicant to provide further information including clarification of the identity of the Applicant as the name on the Application differed to that on the tenancy agreement, clarification of the identity of the Respondent as the party named was neither the landlord in terms of the tenancy agreement or the letting agent, provision of an address for the Respondent, clarification of the nature of the order sought and clarification as to whether or not the tenancy is ongoing. The Tribunal issued a further letter to the Applicant on 11 May 2023 seeking a response to the letter of 31 March 2023. The Applicant did not respond.

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 an order for payment of £510 in terms of rule 103 which applies where a landlord has failed to carry out duties in relation to tenancy deposits. The Applicant named on the form G is not the tenant in the tenancy agreement provided. The Respondent named in the form G is not the landlord or the letting agent in the tenancy agreement provided. The Applicant has failed to provide further information regarding fundamental issues such as linking the application form to the tenancy agreement provided in support. 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.

Legal Member
22 June 2023