

**DECISION AND STATEMENT OF REASONS OF NICOLA IRVINE, 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

**Case reference FTS/HPC/RS/25/2227**

**Parties**

**Ms Lauren Young (Applicant)**

**Mr Brian.J. Gillanders (Respondent)**

**Grieves House, Cairngall, Longside, Peterhead, AB42 4XR (House)**

1. The Applicant made a referral to the Tribunal in terms of Rule 61 of the Rules on 19 May 2025.

**DECISION**

2. 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.*

- 3. After consideration of the application and the documents submitted by the Applicant 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 Rules.**

### **Reasons for Decision**

4. '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.
5. This is a reference to the Tribunal in respect of the property Grieves House, Cairngall, Longside, Peterhead, AB42 4XR

6. The tenancy is a Short Assured Tenancy under the Housing (Scotland) Act 1988 (“the Act”). It commenced on 5 May 2012.
7. On 15 April 2025 the Respondent served a notice on the Applicant indicating that they intended to increase the rent on the property to £750.00 per calendar month with effect from 5 June 2025. The notice was not in a prescribed form.
8. The Applicant wrote to the Respondent on 30 April 2025, acknowledging receipt of the hand delivered note and requesting a valid rent increase notice.
9. On 6 May 2025, the Respondent served a different rent increase notice on the Applicant.
10. The Respondent did not use form AT2 to give notice of intention to increase the rental. Instead, he used a form prescribed by The Private Housing (Tenancies) (Scotland) Act 2016, seeking to increase the rental from £650 per month to £900.00 per month with effect from 7 August 2025.
11. The Applicant objected to the proposed increase by referring the proposed increase to the Tribunal by lodging Form AT4 dated 19 May 2025.
12. The matter was referred to a legal member of the Tribunal with delegated powers of the Chamber President.

### **Reasons for Decision**

13. The tenancy is a short assured a tenancy under the Housing (Scotland) Act 1988 (“the 1988 Act”).
14. Rent increases in assured tenancies are governed by section 24 of the 1988 Act which requires the landlord to serve a notice of intention to increase rent in the prescribed form. The prescribed form is a form AT2.
15. There is no clause in the tenancy agreement which makes provision for an increase in rent. The Respondent is therefore obliged to serve a notice in the form prescribed by section 24(1) of the 1988 Act (i.e. an AT2).
16. The notice of intention to increase rent was served by reference to The Private Housing (Tenancies) (Scotland) Act 2016, using the form prescribed by that Act in relation to private residential tenancies and incorrectly advised

the Applicant that she could challenge the notice by referring the notice to the Rent officer.

17. The notice of increased rent should have been served under The Housing (Scotland) Act 1988. The notice refers to the wrong statute and does not advise the tenant of her appeal rights. The notice is defective in form and so is invalid.
18. No valid notice of intention to increase rent has been served. There cannot, therefore, be an increase in rental.

### **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.

# Nicola Irvine

Nicola Irvine  
Legal Member  
5 June 2025