



**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

16B Froghall Avenue, Aberdeen AB24 3JT ("the Property")

Case Reference: FTS/HPC/CV/23/4327

Kit Tailor, 16B Froghall Avenue, Aberdeen AB24 3JT ("the Applicant")

**Winchester Lettings Ltd, 7 Albert Street, Aberdeen AB25 1XX ("the
Respondent")**

1. By Application dated 5 December 2023 the Applicant sought an order for payment under rule 111. The Applicant lodged no supporting documentation.
2. The Tribunal sought a copy of the tenancy agreement by email dated 6 December 2023. No response was received. The Tribunal issued a further request for information on 9 January 2024 in which a copy of the tenancy agreement was sought along with evidence to support the costs claimed. The Applicant responded by email dated 9 January 2024 and provided a copy of the tenancy agreement and a copy of a bill from Ovo Energy.
3. Further information was sought on 16 February 2024. The further information sought was : clarification that the Respondent should be the landlord per the tenancy agreement and not Winchester Lettings Ltd; details or evidence of the alleged disrepair at the property and details of costs which the Applicant sought

to recover in respect of energy expenses, repairs and medical expenses. Further, the Applicant was told that the sums claimed would require to be linked to the alleged disrepair at the property. A detailed breakdown of the amounts claimed with supporting evidence was requested. A response was requested by 1 March 2024. No response was received.

DECISION

4. 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.

- 5. 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

6. '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.

7. The Applicant sought reimbursement of rent of £8469.50 plus further rent paid; the cost of repairs and maintenance of £255.42 plus further unspecified costs to be incurred; medical costs of £200 and excess energy costs of £2000. Little detail was provided of disrepair at the property and no evidence was provided in support such as photographs or notification to the landlord of disrepair. No reason was provided for medical costs being incurred or why the Applicant was entitled to recover them from the Respondent. No details was provided to support a claim for reimbursement of excess energy costs. The Application totally lacked specification. The Application was directed against a letting agent and not against the landlord in terms of the tenancy agreement. 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.

Joan Devine
Legal Member
27 March 2024