



**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

50 Aurs Glen, Barrhead G78 2LJ ("the Property")

**Case Reference: FTS/HPC/PR/25/4411
FTS/HPC/PR/25/4412
FTS/HPC/PR/25/4413
FTS/HPC/PR/25/4414**

James McKinven, 1 Dunmore Lane, Gorbals, Glasgow G5 9BL ("the Applicant")

1. The Applicant lodged form G dated 10 October 2025. The Application was stated to be under rule 69, 78, 103 and 110. As four rules were referred to in the application, four case references were allocated to the application. In support of the application the Applicant lodged a copy tenancy agreement which commenced on 22 February 2021, a copy notice to leave dated 17 January 2025, a copy of an advert for a property to let at Aurs Glen, Barrhead, copy text messages and an email from Safe Deposits Scotland dated 20 March 2025 regarding a deposit repayment request for the Property from agent / landlord seeking a response by 6 May 2025. In the application the Applicant named one of the landlords in the tenancy agreement as Respondent as well as Safe Deposits Scotland.
2. By email dated 15 October 2025 the Tribunal noted that as the tenancy commenced on 22 February 2021, rules 69 and 78 would not apply. The Tribunal invited the Applicant to withdraw applications under those rules. No response was received. The Tribunal sent a further email dated 31 October

2025. No response was received.
3. By email dated 15 October 2025 the Tribunal noted that the application had also been made under rule 110 and invited the Applicant to lodge a fresh application setting out why the Applicant considered they were misled into leaving the tenancy and to provide evidence in support of the application. No response was received. The Tribunal sent a further email dated 31 October 2025. No response was received.
 4. By email dated 15 October 2025 the Tribunal sought further information in respect of the application under rule 103 as follows : a revised application which related only to rule 103 and included both landlords as Respondent ; an address for the Respondent which was not a care of address; a revised application which did not include Safe Deposits Scotland as a Respondent and evidence of the end date of the tenancy. No response was received. The Tribunal sent a further email dated 31 October 2025. No response was received.

DECISION

5. 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.

6. 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

7. '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.
8. In so far as the application was made under rule 69 and 78, the Applicant had lodged a private residential tenancy ("PRT") which commenced on 22 February 2021 in support of the application. Rule 69 and 78 do not relate to private residential tenancies. Rule 69 relates to tenancies under the Housing (Scotland) Act 1988. Rule 78 relates to applications for compensation under section 21 of the Rent (Scotland) Act 1984. Section 21 relates to protected or statutory tenancies. A PRT is not a protected or statutory tenancy. No Address was provided for the Respondent which is a requirement of rule 69 and 78.
9. As regards the application under rule 110, no explanation was provided regarding why the Applicant considered they had been misled into leaving the tenancy. No Address was provided for the Respondent which is a requirement of rule 110.
10. As regards application under rule 103, Safe Deposits Scotland were named as a Respondent with no explanation as to why that might be appropriate or competent. No information was provided as regards the date on which the tenancy ended to allow the Tribunal to check that the application had been made within 3 months of the tenancy end date as required by the Tenancy Deposit Schemes (Scotland) Regulations 2011. No Address was provided for the Respondent which is a

requirement of rule 103.

11. In all the circumstances, the Legal Member determines that each of the the Applications are frivolous, misconceived and have no prospect of success. The Applications are 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

Joan Devine
Legal Member
11 November 2025