



**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

12 Lochend Avenue, Gartcosh, Glasgow G69 8BG ("Property")

Case Reference: FTS/HPC/EV/25/4934

**John Campbell, 11 Torrance Wynd, East Kilbride, Glasgow G75 0RY
("Applicant")**

1. The Applicant sought an order for possession of the Property in terms of Rule 109 of the Rules and Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 ("2016 Act"). The Applicant lodged form E dated 21 December 2025. The Applicant lodged a copy of a private residential tenancy agreement and a copy Notice to Leave dated 7 April 2025 in which the ground for eviction was stated to be ground 1. The Applicant also lodged a section 11 notice.
2. By email dated 21 January 2026 the Tribunal sought further information including: evidence of service of the Notice to Leave and evidence to support the ground for eviction. The Tribunal also noted that the wrong legislation was referred to in the section 11 notice and that the Notice to Leave appeared to be invalid as it was dated 7 April 2025 and at part 4 stated that proceedings would not be raised before 15 July 2023. No response was received from the Applicant.
3. The Tribunal followed up the request for further information by email dated 28 February 2026 and requested a response by 14 March 2026. No response was received from the Applicant.

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 seeks recovery of possession of property let under a private residential tenancy. In terms of section 52(3) of the 2016 Act an application to the First-tier Tribunal for an eviction order against a tenant must be accompanied by a Notice to Leave which has been given to the tenant. The Applicant failed to provide evidence that the Notice to Leave had been given to the tenant. In the absence of evidence of service of the Notice to Leave, the application cannot succeed. In addition, no evidence was provided to support the ground on which eviction was sought as is required by Rule 109 of the Tribunal rules of procedure and in any event, the Notice to Leave appeared to be invalid as insufficient notice was given to the Respondent..
8. 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
23 April 2026