



**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

2/19 Garturk Street, Govanhill, Glasgow G42 8JH ("Property")

Case Reference: FTS/HPC/EV/25/4981

A& H Scotland Ltd, 35A Thorn Road, Bearsden, Glasgow G61 4BS ("Applicant")

**Ian Robb Property consultants, The Beacon, 176 St Vincent Street, Glasgow G2
5SG ("Applicant's Representative")**

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 19 November 2025. The Applicant lodged a copy of a private residential tenancy agreement and a copy Notice to Leave dated 6 August 2025 in which the ground for eviction was stated to be ground 3.
2. By email dated 8 December 2025 the Tribunal sought further information including: evidence of service of the Notice to Leave; evidence to support the ground for eviction; a copy of the section 1 notice sent to the local authority and evidence of it having been sent. The Tribunal also asked for evidence that the Applicant's Representative had authority to act. No response was received from the Applicant.
3. The Tribunal followed up the request for further information by emails dated 8 December 2025 and 22 January 2026. No response was received. The Tribunal again followed up the request by letter dated 6 March 2026 and

requested a response by 20 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 nor was a section 11 notice provided along with evidence of it having been issued as required by section 56 of the 2016 Act.
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

