



**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**

**Acreknowe Farm House, Acreknowe Farm, Hawick TD9 9UQ ("the Property")**

**Case Reference: FTS/HPC/PR/25/4830**

**Jaimie Jack, 94 Fairhurst Drive, Hawick TD9 8HS ("the Applicant")**

1. The Applicant lodged form G under rule 78 (application for compensation for misrepresentation or concealment by landlord.) dated 6 November 2025. In support of the application the Applicant lodged a copy tenancy agreement which commenced on 1 November 2024 and which was a private residential tenancy under the Private Housing (Tenancies)(Scotland) Act 2016 ("2016 Act").
2. By email dated 2 December 2025 the Tribunal brought to the attention of the Applicant that applications under rule 78 relate to tenancies which are regulated tenancies or Part VII contracts and not to tenancies under the 2016 Act. The Tribunal suggested that the Applicant may wish to withdraw the application and make a fresh application under another rule. No response was received from the Applicant. The Tribunal followed up the request for clarification by email dated 27 January 2026. On 2 February 2026 the Applicant sought further time to provide the information requested. This was granted. On 5 March the Applicant again sought further time to provide the information requested. This was granted.
3. On 14 April 2026 the Tribunal emailed the Applicant providing a final

opportunity to clarify their position and noted that two further applications had been lodged by the Applicant which appeared to relate to the same issues as those raised in the application under rule 78. The Tribunal again asked the Applicant to clarify whether he wished to withdraw the application. 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 an order under rule 78 which relates to tenancies which are regulated tenancies or Part VII contracts and not to tenancies under the 2016 Act. The Applicant provided no basis for making an application under rule 78. In all the 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

22 May 2026