

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF STEVEN QUITHER, 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 Procedural Rules")

in connection with

**FLAT 2/2, 12 WILLIAM STREET, HELENSBURGH G84 8BD ("the Property")**

**Case Reference: FTS/HPC/PR/19/1814**

**ROBERT GOWLING, FLAT 9, 1 BRAID AVENUE, CARDROSS G82 5QF ("the Applicant")**

**CLAIRE WRIGHT, 20 ALBERT DRIVE, HELENSBURGH, G84 7HF ("the Respondent")**

**DECISION**

After consideration of the application, the attachments and correspondence from the applicant, I consider that the application should be rejected on the basis that I have good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

**BACKGROUND**

1. On 9 June 2019, the Applicant made an application for damages arising out of an unlawful eviction under Rule 69 of the Procedural Rules. The following documents were enclosed with the application:-

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- Notice to Leave dated 12 December 2018, intimating no application for eviction would be submitted to this tribunal before 11 March 2019 (thus affording at least the required 84 days notice); and
- E-mail of the same date, from landlord's agent, intimating said Notice to Leave;

Separately, an application was also made on the same date for a wrongful termination order under Rule 110 (HPC ref FTS/HPC/PR/19/1867), in respect of which the same Notice to Leave and e-mail was lodged.

2. Rule 8 of the Procedural Rules 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."*

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## REASONS FOR DECISION

3. The Applicant seeks damages arising out of an unlawful eviction under Rule 69 of the Procedural Rules. In that respect, the documentation referred to *supra* was lodged with the Application. Thereafter, this Tribunal sought further information and clarification by letter of 6 August, to which the Applicant has now responded by e-mail of 9 September. However, in that e-mail he advises that no eviction actually took place, but that he simply moved out of the Property in accordance with the Notice to Leave. Indeed, in said e-mail he appears to concede that he has misunderstood the position and that, since there was no eviction order this claim falls to be disregarded. His candour is to be commended.
4. As indicated above, an associated application has been made for wrongful termination under Rule 110, in association with Section 58 of the Private Housing (Tenancies) (Scotland) Act 2016, subsection 3 of which seems to reflect the Applicant's position stated in both this application and his rule 110 application. That application appears to me to be the appropriate way for the Applicant to proceed and rejection of this application will not prejudice that separate, although associated, application. However, for clarity I feel it appropriate to reject this application, mindful of the further information provided and concession now made by the applicant regarding this application.
5. Accordingly, I consider it is not appropriate to accept the application, which I now reject, on the basis that it is superfluous to the Applicant's other application and without any criticism whatsoever of the Applicant.

### 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

S. Quither

within 30 days of the date the decision was sent to them. Information about the appeal procedure can be forwarded to you on request.

S. Quither

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Legal Member

GLASGOW

25 SEPTEMBER 2019