



**DECISION AND STATEMENT OF REASONS OF PETRA HENNIG MCFATRIDGE 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

Case reference FTS/HPC/PR/25/4198

Parties

Connie Templeman, Katie Templeman (Applicant)

68 Blacklaw Road, Dunfermline, KY11 4AP (House)

1. On 28.9.2025 the First –tier Tribunal for Scotland, Housing and Property Chamber (the FTT) received the application from the under Rule 103 of the Rules of Procedure. It was accompanied by a letter addressing points previously raised in relation to two other applications made by the Applicant.
2. The application asks for the return of a deposit of £900 but states that the deposit is currently lodged with a deposit scheme.
3. The application does not contain an address for the Respondent and only gives the name of the company and of a named individual.
4. On 3.10.2025 the FTT wrote to the Applicant in connection with this and two further applications as follows: I refer to your recent application which has been referred to the Chamber President for consideration. Before a decision can be made, we need you to provide us with the following: You have now lodged three separate application forms with the Tribunal. They have been reviewed by a legal member of the First-tier Tribunal with delegated powers of the Chamber President who has raised the following matters Your first application was lodged on 27 July 2025. It was given tribunal reference number FTS/HPC/CV/25/3249 The tribunal

wrote to you on 14 August 2025 asking for further information. You did not reply directly to that request but you sent an email on 1 September 2025 containing a second (although identical) application form which was registered by the tribunal and given reference number FTS/HPC/CV/25/3747 The tribunal wrote to you on 19 September 2025 asking you to provide further information in respect of this second application. In each of these application forms, you indicated you sought an order for return of a tenancy deposit which amounts to £900, and a penalty of up to three times the deposit amount. Your applications bore to be lodged under rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the procedure rules") In each of the letters sent to you by the tribunal after receipt of your applications, it was indicated to you that applications under the Tenancy Deposit Schemes (Scotland) Regulations 2011 ("the 2011 regulations") which allow the tribunal to make an award of up to three times the deposit if a landlord has failed to place a tenancy deposit with an approved scheme in accordance with the Regulations or has failed to provide the prescribed information required to be lodged as a separate application under rule 103 of the procedure rules In our letter to you of 19 September we asked you to explain why you were making an application for return of a deposit which was now lodged with the appropriate deposit scheme. It was indicated to you that the point of the deposit scheme is to protect a deposit and that the scheme 2 provider at the end of tenancy will undertake an adjudication process which will then deal with the return of the deposit You appear to have responded to that email by your email of 28 September. You have then also included an undated letter which seems to be your reply to the points raised in the tribunal's letter of 19 September. Along with the email and letter, you attach a further application form. This third application form apparently seeks to raise an application under rule 103 but only requests an order for the return of your deposit. This third application form has also been registered by the tribunal and has been given reference number FTS/HPC/PR/25/4198 You indicate your tenancy ended on 30 June 2025. Applications seeking an award under the 21011 regulations must be lodged within three months a set out above. Can you please clarify what you are seeking from this tribunal? The tribunals now has three separate applications registered in your name under the three reference numbers listed above Quite clearly the applications numbered FTS/HPC/CV/25/3249 and FTS/HPC/CV/25/3747 are identical and one of them should never have been registered. Please confirm you are happy that one of these applications is withdrawn. Please confirm that you also accept that an application to the tribunal seeking return of a deposit which is now lodged with a deposit scheme is an application which cannot proceed. The appropriate jurisdiction for dealing with claims seeking return of the deposit lies with the adjudication process provided by the deposit scheme. If you are seeking only to pursue an application under rule 103 (seeking an award in terms of any alleged breach of the 2011 regulations) then please provide us with your full submission confirming why you believe that you have lodged such an application with the tribunal in time given the specific time limits set out in the 2011 regulations We would strongly advise you to seek independent legal advice prior to responding to this letter Please respond to this letter as quickly as possible bearing in mind the time limit set out above in respect of applications under

the 2011 regulations. If you fail to respond to this letter then the tribunal may reject your application. You should be aware that the Tribunal has the power to reject applications on grounds set out in rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. Please reply to this office with the necessary information by 17 October 2025. If we do not hear from you within this time, the President may decide to reject the application.

5. On 15.10.2025 the Applicant replied:
 1. Duplicate Applications I understand that three applications have been registered under references FTS/HPC/CV/25/3249, FTS/HPC/CV/25/3747, and FTS/HPC/PR/25/4198. The duplication occurred only because my initial submission could not be opened due to the file format and a possible virus warning, so I resent the application in the requested format. I did not realise this would create a new reference. I confirm that I am happy for one of the duplicate applications (FTS/HPC/CV/25/3747) to be withdrawn.
 2. Application to Proceed With The application I wish to proceed with is the one submitted on the 28th of September 2025, made under 'Rule 103' of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. This application seeks a penalty under Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011, as the landlord failed to comply with the legal requirements to lodge the tenancy deposit within the prescribed time limits.
 3. Clarification of My Claim The landlord protected the deposit approximately 30 days after my tenancy had ended (the tenancy ended on 30 June 2025). This means the deposit was not lodged in an approved scheme within the required 30 working days after the tenancy began, and it was only protected after the tenancy was over, which is contrary to the 2011 Regulations. As such, I believe the landlord has breached the Regulations and I am seeking a financial sanction under Rule 103.
 4. Amount Stated in the Application I included an indicative figure based on publicly available templates that suggested entering an estimate (up to three times the deposit) for context. I now understand this was not necessary and I am content for the Tribunal to disregard any specific figure stated apart from my initial deposit which amounted to £900.
 5. Application in Time As my tenancy ended on 30 June 2025, and my initial application was lodged on 27 July 2025, it was submitted within three months of the tenancy ending, in accordance with Regulation 9(2) of the 2011 Regulations.
 6. Reason Why We Have Not Withdrawn from Scheme To clarify as well about the deposit scheme dealing with this, they advised we seek support from a Tribunal which as why we have submitted this application, deposit scheme made us aware that if we were to withdraw from the deposit scheme this may result in a case of money laundering. I hope this clarifies the matter. Please proceed with my application under Rule 103 (reference FTS/HPC/PR/25/4198) and withdraw the duplicate application FTS/HPC/CV/25/3747.
6. All documents are referred to for their terms and held to be incorporated herein.

B DECISION

1. I considered the application in terms of Rule 8 of the 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."

2. After consideration of the application, the attachments and correspondence from the Applicant, I consider that the application should be rejected in terms of Rule 8 (c) of the Rules of Procedure on the basis as the Tribunal has good reason to believe that it would not be appropriate to accept the application.

C RELEVANT LEGISLATION

The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017

Rule 103. Where a tenant or former tenant makes an application under regulation 9 (First-tier Tribunal orders) of the 2011 Regulations, the application must—

(a)state—

(i)the name and address of the tenant or former tenant;

(ii)the name, address and profession of any representative of the tenant or former tenant; and

(iii)the name, address and registration number (if any) of the landlord;

(b)be accompanied by a copy of the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the tenant or former tenant can give;

(c)evidence of the date of the end of the tenancy (if available); and

(d)be signed and dated by the tenant or former tenant or a representative of the tenant or former tenant.

Requirements for making an application

Regulation 9 of The Tenancy Deposit Schemes (Scotland) Regulations 2011

(1) A tenant who has paid a tenancy deposit may apply to the First-tier Tribunal for an order under regulation 10 where the landlord did not comply with any duty in regulation 3 in respect of that tenancy deposit.

(2) An application under paragraph (1) must ... be made no later than 3 months after the tenancy has ended."

D REASONS FOR DECISION

1. In terms of Regulation 9 of The Tenancy Deposit Schemes (Scotland) Regulations 2011 "(1) A tenant who has paid a tenancy deposit may apply to the First-tier Tribunal for an order under regulation 10 where the landlord did not comply with any duty in regulation 3 in respect of that tenancy deposit. (2) An application under paragraph (1) must ... be made no later than 3 months after the tenancy has ended." Regulation 10 then states: "If satisfied that the landlord did not comply with any duty in regulation 3 the First-tier Tribunal (a) must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit..."
2. The Applicant states the tenancy ended on 30.6.2025. Thus the latest day the application has to be completed to be valid as an application under Rule 103 was 30.9.2025.
3. In terms of Rule 5 (3) of the Procedural Rules "the application is to be held to be made on the date that the First-tier Tribunal receives the last of any outstanding documents necessary to meet the required manner for lodgement."
4. The application, as the two other applications made by the Applicants, does not contain the address and landlord registration number of the Respondent. Even if it was argued that the application under reference number PR.25.4198 should be read as an amendment to one of the previous applications under reference CV.25.3249 and CV.25.3747, this would not remedy the situation as neither of the other applications contains the necessary Respondent details.

5. It is now too late to make further amendments as the 3 months period during which an application under rule 103 can be made has passed.
6. Furthermore, the application under rule 103 explicitly asks for the return of the full deposit of £900, which is an order the Tribunal cannot make under rule 103. Rule 103 solely relates to proceedings in which a Tribunal can order payment of “an amount not exceeding three times the amount of the tenancy deposit” in cases where the landlord failed to comply with the obligations under The Tenancy Deposit Schemes (Scotland) Regulations 2011. The application thus did not ask for a competent order under the rule.
7. It would not be appropriate for the Tribunal to accept an application which is made out with the 3 months time limit stated in Regulation 9 of The Tenancy Deposit Schemes (Scotland) Regulations 2011 and which asks for an outcome that cannot be achieved under the specific rule. The application is thus rejected.
8. For the avoidance of doubt, the Upper Tribunal has confirmed in previous decisions that the FTT is bound by the lodging requirements stated in primary legislation and regulations and does not have the power to accept applications which do not meet the statutory requirements for such applications. In UT 18 [2019] Sheriff Deutsch states: “ [1] *The appellant in his email of 5 August 2018 advances a number of cogent reasons why, if it had a discretion to do so, the tribunal might allow the application for an eviction order to proceed, notwithstanding the defect identified in the notice to leave upon which the appellant relies. Unfortunately no such discretion exists. The tribunal can only operate within the terms of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and subordinate legislation in the form of regulations made by the Scottish Ministers.* In UT60 [2019] Sheriff Di Emidio states at paragraph 14: “*It does not matter whether the application was treated as having been submitted on 18 February 2019 or 27 March 2019 or 4 April 2019 or 15 May 2019. The FtT’s decision was correct because the information provided by the appellant meant that the application was too late having regard to statutory time limit stated in rule 9. The fact that the HPC Administration required him to submit a different form may have served to muddy the waters but there is no arguable error of law arising out of maladministration which has contributed to any injustice to the appellant.*”

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.

Petra Hennig McFatridge
Legal Member
17 October 2025