



**Decision and statement of Reasons of the First Tier Tribunal (Housing and Property Chamber)**

**Under Rule 8 of the First Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 'the Rules'.**

In respect of application by Stephen McIntyre-Stewart in terms of rule 103 of the Rules.

**Case reference FTS/HPC/PR/26/1487**

At Glasgow on the 20 April 2026, Lesley Anne Ward, legal member of the First –Tier Tribunal 'the Tribunal' with delegated powers of the Chamber President, rejected the above application in terms of Rule 8(1) (a) and (c) of the Rules

1. This is an application by Stephen McIntyre-Stewart, ostensibly for a penalty regarding a tenancy deposit in terms of rule 103 of the Rules.
2. The application was undated and was entered in the case management system of the Tribunal Chamber on 7 April 2026.
3. The in-house convenor reviewed the application and the Tribunal wrote to the applicant on 9 April 2026 as follows:
  - (1) It appears from your description that there never was an actual tenancy as there was no agreement and you never moved into the property. Thus please explain on what legal basis the protection of The Tenancy Deposit Schemes (Scotland) Regulations 2011 would apply as they require a tenancy to have commenced for the obligation to register the deposit to apply.
  - (2) You have not signed and dated the application and it is thus invalid.
  - (3) An application under rule 103 can only be made within 3 months of the end date of the tenancy - as you never moved in and the payment was made in October 2025 it would appear that the application in any event would be outwith that 3 months period. Please note that if you are applying for repayment of a deposit you may be able to do so even after more than 3 months have expired but you would have to make representations as to how the matter arose from a private residential tenancy and make the application

under the relevant rule in a separate application. Please consider withdrawing the application under rule 103.

4. The applicant did not respond.
5. I have reviewed this application today and I have decided to reject it under rule 8 (1) (a) and (c).

#### Reasons

6. Rule 103 of the Rules provides:

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.

7. Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 provides:

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."

8. Rule 8(1)(a)of the Rules allows an application to be rejected by the Chamber President if '***they consider that an application is vexatious or frivolous***'.

9. "Frivolous" in the context of legal proceedings is defined by Lord Justice Bingham in R-v- North West Suffolk (Mildenhall) Magistrates Court (1998) Env.L.R.9. At page 16 he states:- "What the expression means in this context is, in my view, that the court considers the application to be futile , misconceived, hopeless or academic".

10. I consider that this application is frivolous or vexatious and has no reasonable prospect of success. Regulation 9 requires an application to be made within 3 months of the end date of the tenancy. It appears there was no tenancy constituted in this case. It is therefore arguable the regulations do not apply.

The applicant states in the application that he paid a tenancy deposit in October 2025. Therefore more than three months have elapsed. The application is therefore time barred. The Tribunal has no discretion to extend this period.

11. Further, in terms of rule 8(1)(c) the Tribunal President must reject an application if they have good reason to consider it would not be appropriate to accept it. The applicant has failed to respond to the Tribunal's request for information of 9 April 2026. He has therefore failed to cooperate with the Tribunal in the execution of its duties and this is a good reason to refuse to accept the application.

12. The application therefore has to be rejected.

**NOTE: What you should do now.**

If you accept this decision there is no need to reply.

If you disagree with this decision you should note the following:

An applicant aggrieved by this 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 seek permission to appeal within 30 days of the date the decision was sent them. Information about the appeal procedure can be forwarded on request.

# L. Ward

Legal Member