

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



**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

78B Clydesdale Road, Bellshill ML4 2QL

**Case Reference: FTS/HPC/CV/20/0863**

**Dr Zubair Ahmed ("the applicant")**

**Apex Property Factor Ltd, 46 Kirkintilloch, Glasgow, G66 1QH ("the respondent")**

1. On 10 March 2020 an application was received from the Applicant through his representatives. The application states it was made under Rule 111 of the Procedural Rules being an application under S 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016. The following documents were enclosed with the application:-  
Statement of Account dated 10 February 2017 from the Respondent to the Applicant regarding the property  
Screenshot dated 17 February 2020 from The Scottish Property Factor Register showing the removal of Apex Property Factor Limited from the Property Factor Register as of 10 April 2019.



The application only gives the name and email address of the Applicant.

The application does not include any documentation linking the matter to a tenancy agreement in place or a contract between the parties.

## **DECISION**

- 2. After consideration of the application, the attachments and correspondence I consider that the application should be rejected on the basis that it would not be appropriate to accept the application in terms of Rule 8(1)(c) of the Procedural Rules.**

## **RELEVANT STATUTORY PROVISIONS:**

- 3. Rule 8 of the Procedural Rules states:-**

### **"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."



**S 71 of the Private Housing (Tenancies) (Scotland) Act 2016 states:**

**71 First-tier Tribunal's jurisdiction**

(1) In relation to civil proceedings arising from a private residential tenancy—

(a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),

(b) a sheriff does not have competence or jurisdiction.

(2) For the purposes of subsection (1), civil proceedings are any proceedings other than—

(a) the prosecution of a criminal offence,

(b) any proceedings related to such a prosecution.

Rule 111 of the Rules of Procedure states:

**Rule 111 of the Procedure Rules states:**

**Application for civil proceedings in relation to a private residential tenancy**

111. Where a person makes any other application to the First-tier Tribunal by virtue of section 71(1) (First-tier Tribunal's jurisdiction) of the 2016 Act, the application must—

(a) state—

(i) the name and address of the person;

(ii) the name and address of any other party; and

(iii) the reason for making the application;

(b) be accompanied by—

(i) evidence to support the application; and

(ii) a copy of any relevant document; and

(c) be signed and dated by the person.

**REASONS FOR DECISION**

4. In terms of Rule 8 (1) (c) it would not be appropriate to receive the application because the Tribunal, based on the information provided in the application, has no jurisdiction in the matter. As stated in S 71 of the Private Housing (Tenancies) (Scotland) Act 2016, an application must arise from a private residential tenancy. There is no evidence that the civil proceedings arise from a tenancy at all. The only documents submitted are an invoice from the Respondents to the Applicant, which do not identify the matter of the



invoice and information showing the Respondents were removed from the Property Factor Register. Neither document links the matter to a Private Residential Tenancy. The invoices relate to a period of 7.10.2014 to 12.1.2017 when the Private Housing (Tenancies) (Scotland) Act 2016 was not in force. I conclude based on the information submitted that the First-tier Tribunal cannot have jurisdiction in the matter under S 71 of the Private Housing (Tenancies) (Scotland) Act 2016

5. In terms of Rule 8 (1) (c) it would also not be appropriate to receive the application as it does not meet the lodging requirements for an application under Rule 111 of the Rules of Procedure. The Applicant states the application is made under Rule 111. Rule 111 of the Rules of Procedure requires the application to state the name and address person making the application. The application did not state the address of the Applicant. This was left blank on the form.
6. Rule 111 further requires the application to be accompanied by evidence to support the application. There is nothing in the application to suggest that the civil proceedings are arising from a private residential tenancy. No tenancy agreement was lodged, no other information linking the matter to a tenancy agreement was lodged. The reference in the application is to funds paid by the Applicant to the Respondent for common repairs. These funds were then allegedly not carried out. No evidence of a link to a tenancy agreement was provided.
7. The lodging requirements are not met and it would not be appropriate for the First-tier Tribunal to accept the application.

### **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  
23 March 2020