



**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:** Case reference FTS/HPC/PR/23/0422

**Parties**

**Ms Colette Robertson (Applicant)**

**Mr Janus Owen (Respondent)**

**58A West Road, Newport-on-Tay, DD6 8HP (House)**

1. The application dated 1.2.2023 was made to the First-tier Tribunal, Housing and Property Chamber (FTT) under Rule 103 of the Procedural Rules under Regulation 9 of The Tenancy Deposit Schemes (Scotland) Regulations 2011 and received by the FTT on 9.2.2023.
2. The applicant gave as the end date of the tenancy 12.11.2022.

3. The application did not provide an address for the respondent. No application for service by advertisement was included. No details of the tenancy and no tenancy agreement were provided.

## DECISION

4. 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."*

5. 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 FTT has good reason to believe that it would not be appropriate to accept the application.

## REASONS FOR DECISION

6. In terms of Rule 103 of the Procedural Rules an application under regulation 9 of The Tenancy Deposit Schemes (Scotland) Regulations 2011 has to  
“(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***”
7. In terms of regulation 9 (2) of The Tenancy Deposit Schemes (Scotland) Regulations 2011  
“an application under paragraph (1) must.....be made no later than 3 months after the tenancy has ended”.
8. In terms of rule 5 of the Procedural Rules (Requirements for making an application)  
“5.—(1) An application is held to have been made on the date that it is lodged if, on that date, it is lodged in the manner as set out in rules 43, 47 to 50, 55, 59, 61, 65 to 70, 72, 75 to 91, 93 to 95, 98 to 101, 103 or 105 to 111, as appropriate.  
(2) The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged in the required manner by assessing whether all mandatory requirements for lodgement have been met.  
(3) If it is determined that an application has not been lodged in the prescribed manner, the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, may request further documents and 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) Where the address of a party is not known to the person making an application under these Rules, the applicant must state this is the application and complete a request for

service by advertisement in accordance with paragraph (5).

..... “

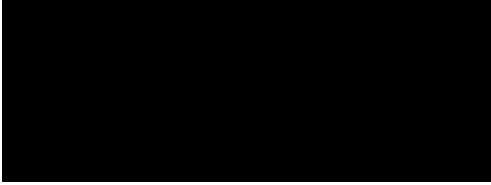
9. The application is rejected because the applicant has not provided the necessary information for lodging the application within 3 months in terms of Regulation 9 (2) of The Tenancy Deposit Schemes (Scotland) Regulations 2011. The tenancy end is stated as 12.11.2022. Although the application reached the FTT on 9.2.2023, no respondent address details were provided as required in terms of Rule 103 (a) (iii) of the Procedural Rules. No application for service by advertisement was applied for. In terms of Rule 5 (1) of the Procedural Rules an application is only held to have been made on the date it was received if at that time it was made in accordance with the relevant provisions in the applicable rule. The application does not meet these requirements.
10. An application under Regulation 9 of The Tenancy Deposit Schemes (Scotland) Regulations 2011 can only be made within 3 months of the end of the tenancy. As at 13.2.2023 the application is not validly made. The application was incomplete on the day the 3 months period for making an application under rule 103 expired. The application cannot now be validly made within 3 months of the date of the end of the tenancy.
11. It would not be appropriate for the FTT to accept an application that is made out with the statutory time frame stated in Regulation 9 (2) of The Tenancy Deposit Schemes (Scotland) Regulations 2011 or to accept an incomplete application that does not meet the lodging criteria.

### **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  
13 February 2023