



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 Mr Omar Odeh and Ms Leen Al Kallani in terms of rule 103 of the Rules.

Case reference FTS/HPC/PR/23/2406

At Glasgow on the 9 August 2023, 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 Mr Omar Odeh and Ms Leen Al Kallani in terms of rule 103 of the rules. Mr Odeh was the original applicant and Ms Al Kallani was added on 8 August 2023.
2. Mr Odeh made three application on 19 July 2023 in terms of rules 78, 103 and 110 of the rules. According to this application, the Applicants had a dispute with their landlords regarding the boiler. They were given a notice to leave and want to make a claim against the landlords for wrongful termination and in rent relief regarding the faulty boiler. There was no information contained within the Application regarding the landlord’s failure to lodge a tenancy deposit in a deposit scheme.
3. The in-house convenor reviewed the applications and the Tribunal wrote to the Mr Omer on 31 July 2023 seeking further information as follows:
 - (1).Please provide a copy of the tenancy agreement.
 - (2). Your application has been made against the letting agent. The legal responsibility for protecting the deposit is with the landlord. Please provide an amended application with the landlord’s name and address. Please note that a care of address is not acceptable.
 - (3). Please provide proof of payment of the deposit and confirm the amount of compensation you seek for the landlord’s failure to protect your deposit.

(4). The Tribunal cannot order repayment of the deposit under Rule 103. If you wish to seek repayment of the deposit please lodge a separate application under Rule 111.

(5). Please confirm the tenancy end date.

(6). There appears to be joint tenant. Please amend your application to include the joint tenant and provide written authorisation from them for you to act on their behalf in this matter. Please note that applications under Rule 103 must be made within 3 months of the tenancy end date. The Tribunal has no discretion to extend the time limit.

4. Mr Odeh responded on 1 August 2023 by providing further copies of the documents he submitted with the three applications. He also provided the second Applicant's details and advised that they left the property on 12 June 2023 although the date on the notice to leave was 3 August 2023.
5. The Applicants have not addressed the remaining matters raised in the tribunal's letter of 31 August 2023. In particular no copy of the tenancy agreement has been provided and no evidence of a deposit has been produced. The information that has been provided appears to relate to a claim in relation to a faulty boiler and wrongful termination of tenancy.
6. Rule 103 provides:

Application for order for payment where landlord has not paid the deposit into an approved scheme

103. Where a tenant or former tenant makes an application under regulation 9 (court 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. The Applicants have failed to provide the essential information required in terms of rule 103. They have failed to give the landlord's name and address and a copy of the tenancy agreement (or any information regarding the terms of the tenancy) or any information regarding payment of a deposit. From the information that has been provided it appears that the Applicants want to pursue matters relating to a faulty boiler and the notice to leave rather than a tenancy deposit.

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 misconceived and has no reasonable prospect of success.
11. Further, in terms of Rule 8(c) of the rules I have good reason to consider that it would not be appropriate to accept this application as it is incomplete and the Applicants have failed to provide the requested information required in terms of rule 103.

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.

Lesley Anne Ward

Legal Member