



**DECISION AND STATEMENT OF REASONS OF MARTIN J. MCALLISTER,
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 Rules")**

in connection with

14 Riverside Gardens, Cronberry, Cumnock, KA18 3LU ("the Property")

Case Reference: FTS/HPC/PR/21/1171

**Ms Jane Gibson, 15 Lamont Crescent, Netherthird, Cumnock, KA18 3DX ("the
Applicant")**

**Ms Louise Hanscombe, Flat 2/2, 10 John Street, Hamilton, ML3 7EU ("the
Respondent")**

BACKGROUND

1. The Applicant submitted an application to the Tribunal, which was received on 17th May 2021, in terms of Rule 103 of the Rules which relates to applications under Regulation 9 of The Tenancy Deposit Schemes (Scotland) Regulations 2011("the 2011 Regulations"). In terms of Regulation 9 (2) of the 2011 Regulations, an application must be "made no later than 3 months after the tenancy has ended." The Applicant was asked for information relating to the termination of the tenancy and, in response, she sent a copy of part of a tenancy agreement between the applicant and Shire Housing Association in respect of the property at 15 Lamont Place, Netherthird, Cumnock, KA18 3DX. The tenancy agreement showed the date of entry for that property to be 9th July 2020.

DECISION

2. The Legal Member considered the application in terms of Rule 5 of the Chamber Procedural Rules and Regulation 9 of the 2011 Regulations. Rule 5 of the Rules provides: - (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 lodgment 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 requirement manner for lodgment. “

3. **After consideration of the application the Legal Member considers that the application should be rejected in terms of Rule 8(1) (c) which states that an application must be rejected if the Tribunal has “good reason to believe that it would not be appropriate to accept the application.” The basis of the decision is that the Applicant has failed to comply with Rules 5 103 of the Rules and Regulation 9 of the 2011 Regulations.**

REASONS FOR DECISION

4. The Application is in terms of Rule 103.
5. The Applicant was asked to provide information on when the tenancy ended and, although she did not provide a date, she submitted a tenancy agreement indicating that she was party to a tenancy in another property from 9th July 2020. The Tribunal considered, on the balance of probabilities and from the information before it, that the tenancy for the Property terminated more than three months prior to receipt of the application which was 17th May 2021

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.

Martin J. McAllister, Legal Member
16th July 2021