



**DECISION AND STATEMENT OF REASONS OF JOSEPHINE BONNAR,
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

2 Sunnyside Gardens, Aberdeen ("the Property")

Case Reference: FTS/HPC/PR/21/2086

Ross Simpson, 10 Tiree Avenue, Paisley ("the Applicant")

Alex Welby, The Lawn, Dipford Trull, Taunton ("the Respondent")

1. The Applicant lodged an application with the Tribunal on 29 August 2021, seeking an order in terms of Rule 103 of the Rules and Regulations 9 and 10 of the Tenancy Deposit (Scotland) Regulations 2011.
2. On 2 September 2021, the Tribunal issued a letter to the Applicant, directing him to provide a copy of the tenancy agreement, the date on which the tenancy ended and evidence of this. He was also asked to clarify the Respondents details as these differed from the information provided on the Scottish Register of Landlords. The Applicant was reminded that the application and all required information had to be submitted no later than 3 months after the tenancy has ended. The Applicant did not respond. On 7 October and 20 October 2021, further letters were issued to the Applicant directing him provide a response and again reminding him of the time limit. He was notified that failure to respond might result in the application being rejected. No response has been received.

DECISION

3. The Legal Member considered the application in terms of Rules 5 and 8 of the Chamber Procedural Rules. Rule 5 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.

4. After consideration of the application the Legal Member determines 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 Rule 5 and Rule 103.

Reasons for Decision

5. The Applicant submitted an application for an order in terms of Rule 103 of the Rules. This Rule states that the application must – (a) state – (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).** The Applicant has failed to provide the tenancy agreement and the date on which the tenancy ended, or any evidence of this. On 2 September, 7 and 20 October 2021 the Tribunal issued letters directing the Applicant to provide this information and documentation and to clarify the identity of the Respondents. The Applicant has failed to respond or provide the required information or documents.

6. The Applicant has failed to provide information and documents required by Rule 103 of the Rules. The Applicant has also failed to provide information and documentation, having been directed to do so in a request for further information by the Tribunal, in terms of Rule 5(3) of the Rules. The Legal Member therefore determines that the application cannot be accepted. The application is rejected on that basis.

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.



Josephine Bonnar, Legal Member
2 November 2021