



**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: FTS/HPC/PR/23/0947

Parties

Mr Kyle Gray (Applicant)

CRM Students Limited (Respondent)

The Hub, 17 Hawkhill, Dundee, DD1 5DL (House)

1. On 23.3.23 the First –tier Tribunal for Scotland, Housing and Property Chamber (the FTT) received the application from the Applicant. The application was made under Rule 103 of the Rules of Procedure. The application was directed against the Letting Agent CRM Students Ltd. The Applicant provided a copy of the tenancy agreement and correspondence from SafeDeposits Scotland. Although the Applicant provided a different address from the property address as his contact address, he later explained that the property is only his address during term time and the contact address provided was his address out with term time. It may thus be that the tenancy for the property still continues.

2. On 30.3.23, 14.4.23, 12.5.23 and 17.5.23 the FTT wrote to the Applicant for further information. The FTT stated clearly that any application under rule 103 had to be directed against the landlord and not the letting agent. The FTT asked the Applicant to provide the landlord's details and to direct the application against the landlord and not the letting agent and explained that otherwise the application would have to be rejected.
3. The Applicant has not replied to the last request for further information and has still not provided the landlord's details.
4. All documents are referred to for their terms and held to be incorporated herein.

B DECISION

1. 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."

2. 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 Tribunal has good reason to believe that it would not be appropriate to accept the application.

C RELEVANT LEGISLATION

The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017

103. Where a tenant or former tenant makes an application under regulation 9 (First-tier Tribunal 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.

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.

Regulation 10 of The Tenancy Deposit Schemes (Scotland) Regulations 2011

Court orders

10. If satisfied that the landlord did not comply with any duty in regulation 3 the First-tier Tribunal —

(a) must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit; and

(b) may, as the First-tier Tribunal considers appropriate in the circumstances of the application, order the landlord to—

(i) pay the tenancy deposit to an approved scheme; or

(ii) provide the tenant with the information required under regulation 42.

D REASONS FOR DECISION

1. The Application is made under Rule 103 of the Procedural Rules and Regulation 10 of The Tenancy Deposit Schemes (Scotland) Regulations 2011. Both provisions show that such an application has to be made by a tenant or former tenant against a landlord. The application was made against the Letting Agent. The application thus does not meet the requirements of rule 103 (a) (iii) as it does not provide the landlord details. Regulation 10 only gives the FTT the power to make an order against a landlord. Thus an application against the Letting Agent cannot lead to a competent order under Regulation 10.
2. The Applicant was given the opportunity to consider the matter. He has still not directed the application against the landlord and has not replied to the FTT's last requests for further information despite the FTT having advised him of the possibility that the application may be rejected in those circumstances.
3. For the above reasons the application has not been competently made and thus it would not be appropriate for the FTT to accept it.

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
6 June 2023