



**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/22/3605

Parties

Mr Gerrit Herders (Applicant)

Mrs Zahir Abbasi (Respondent)

1/1 44 Dudley Drive, Glasgow, G12 9RZ (House)

1. The application was submitted to the First-tier Tribunal, Housing and Property Chamber (FTT) under Rule 103 of the Procedural Rules and Regulation 10 of The Tenancy Deposit Schemes (Scotland) Regulations 2011 by the Applicant on 21.9.2022. The application part 7 c) was not completed, the Respondent 's address was not provided and the Applicant had not provided the tenancy end

date and the tenancy agreement.

2. The FTT wrote to the Applicant requesting a copy of the tenancy agreement, the end date of the tenancy and the Respondent's address on 5.10.22, 21.10.22 and 26.10.22.
3. On 21.11.22 the Applicant asked to replace the Respondent details with those of another individual and finally produced the tenancy agreement and information about the tenancy end in the form of a Notice to Leave dated 3.11.21 and a notice by the Applicant to the Respondent dated 29.3.22 to an end date of 30.4.22. The Appellant advised the keys were returned on 24.4.22.
4. All correspondence is referred to for its terms and held to be incorporated herein brevitatis causa.

DECISION

5. 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."

6. 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

7. Relevant provisions:

Regulation 9 of The Tenancy Deposit Schemes (Scotland) Regulations 2011

9 (1) a tenant who has paid a tenancy deposit may apply to the First tier Tribunal for an order under regulation 10 where the landlord did not comply with any duty in regulation 3 of that tenancy deposit.

(2) an application under paragraph (1) must be made no later than 3 months after the tenancy has ended.

Reasons:

8. It would not be appropriate for the Tribunal to accept an application after the expiry of the period during which such an application can be made. The legislation is clear, in terms of regulation 9 as set out above, an application under regulation 10 of The Tenancy Deposit Schemes (Scotland) Regulations 2011 can only be made no later than 3 months after the tenancy has ended.
9. The tenancy ended on 30.4.22, the date given in the notice of 29.3.22. The date 3 months after that end date is 30.6.22. The application was only sent to the FTT on 21.9.22 (date stamp on application form) and in terms of rule 5 of the Procedure Rules was not held to be made until 21.11.22 when the Applicant finally provided the information required for a valid application.

10. There is no provision that would give the FTT the authority to extend the statutory time limit set out in Regulation 9 of The Tenancy Deposit Schemes (Scotland) Regulations 2011.
11. The application is thus rejected because it was made later than 3 months after the tenancy had ended.

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

8 December 2022