



## 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 Yusheng Jiao in terms of rule 80 of the Rules.

Case reference **FTS/HPC/PR/23/4139**

At Glasgow on the 11 December 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) of the Rules

1. This is an application by Mr Yusheng Jiao, ostensibly in terms of rule 80 of the Rules.
2. The application was made on 18 November 2023. Mr Jiao states that he took over a tenancy at the Novel Student Accommodation in Cathedral Street in Glasgow in April 2023. He states he is owed a refund of £4386. He is unable to provide a copy of his tenancy agreement.
3. Rule 80 relates to an application to adjust recoverable rent in terms of section 31(2) of the Rent (Scotland) Act 1984. There is nothing in the application to suggest that the applicant seeks to adjust recoverable rent. The information in the application suggests that the applicant may be seeking an order in connection with a private residential tenancy, in which case rule 111 may be applicable.
4. 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*'.
5. "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".

6. I consider that this application is frivolous or vexatious and has no reasonable prospect of success as there is nothing in the application to suggest that rule 80 applies.
7. It is open for the applicant to resubmit the application under the correct rule. If he is unable to provide a copy of the tenancy agreement he should provide as much information as he can regarding the terms of the tenancy. He should also provide any correspondence from the respondent regarding the sum at issue.

**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.



Legal Member