



**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/CV/22/3467

Parties

Mr Connor Ronan (Applicant)

Mitchells Sales and Lettings (Respondent)

Apartment 13B, Main Street, Kilsyth, Glasgow, G65 0AH (House)

1. The application for a payment order for £3,100 under rule 111 of the Procedural Rules was received by the First –tier Tribunal for Scotland, Housing and Property Chamber (the FTT) on 22.9.2022. The Respondent was stated as Mitchells Sales and Lettings.
2. The Applicant lodged a tenancy agreement which stated as the landlord Mitchells Asset Management Limited.
3. On 21.10 2022 the FTT wrote to the Applicant requesting the following information:
An application for repayment must be made against the Landlord and not the letting agent. The

owner and landlord listed in the tenancy agreement is Mitchells Asset Management Ltd, 604 Alexandra Parade Glasgow. Please confirm that you wish to amend the Respondent details and provide an amended application form

4. On the same day the Applicant replied that if the form required amendment the FTT needed to advise further.
5. On 21.11.2022 the FTT wrote in the following terms: As previously advised, the application must name the correct respondent. Limited companies are separate legal entities and the Landlord and owner appears to be Mitchells Asset management Ltd, although the address is the same as the letting agent. Please provide an amended form.
6. No reply was received. The FTT repeated the request for an amended application stating the correct Respondent on two further occasions on 23.12.2022 and 27.1.2023. The Applicant was advised On 27.1.2023 that if no amended form was received within 7 days the application was likely to be rejected.
7. As of 21 February 2023 no reply has been received.

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.

REASONS FOR DECISION

1. In terms of rule 111 (a) (ii) of the rules of procedure the application has to provide the name and address of any other party. This is an application for repayment of a deposit paid to the landlord. The tenancy agreement states clearly in clause 3 that the landlord is Mitchells Asset Management Limited. The letting agent for the landlord is stated in clause 2 as Mitchells Sales and Lettings. The PRT was entered into between Mitchells Asset Management Limited and the Applicant and the contractual relationship extends to these parties. The demand for payment would have to be directed against the landlord in these circumstances. The Applicant was asked on several occasions by the FTT to provide an amendment to the application.
2. The FTT had given the Applicant the opportunity to provide the relevant details on 4 occasions.
3. The Respondent stated in the application is a Letting Agent, who acted, as stated in the tenancy agreement provided, as the agent for the landlord. The payments made were made to the landlord via the agent. There is not suggestion that the letting agent acted in any other way than as agent in the matter. On 21.10.2022 the Applicant explicitly stated that he thought they were the same people and asked the FTT to advise if the application required to be amended.
4. The FTT confirmed that a limited company such as Mitchells Asset Management Limited would be a separate legal entity. If the Applicant wished to claim the return of the deposit from the landlord he would have to enter the landlord's details, not the letting agents. The Applicant, despite a previous request that the FTT should advise if the application had to be amended, ceased to communicate with the FTT after 21.10.2022. The Applicant was advised on 21.11.2022, 23.12.2022 and 27.1.2023 that a reply was required and the application likely rejected if no reply was forthcoming. In light of this information the Applicant still did not reply to the request for further information.
5. The FTT in this case considers that it would not be appropriate to accept an application in a situation where the Applicant has clearly decided not to correspond with the FTT further

despite the clear information having been provided that a response was required. As the Applicant clearly refused to communicate with the Tribunal in its attempt to ensure the completion of an application, the FTT in this case considers that the application is not insisted upon and that it would not be appropriate to accept an application which is no longer insisted upon.

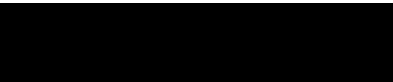
6. The application it is therefore rejected.
7. For the avoidance of doubt, this does not prevent the Applicant from making an application for repayment of the deposit in future.

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

21 February 2023