



Decision with Statement of Reasons of Alan Strain, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber)

Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules")

Chamber Ref: FTS/HPC/PR/23/1140

Re: 43 Bonhard Road, Scone, Perth, PH2 6QB ("the Property")

Parties

Mrs Margaret Unite (Applicant)

Miss Kirsty Livingstone (Respondent)

Tribunal Member:

Alan Strain (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be rejected on the basis that it would not be appropriate to accept the application in terms of Rule 8(1)(c) of the Procedural Rules.

Background

1. The application was received by the Tribunal under Rule 111 on 11 April 2023.
2. The application was considered by the Tribunal on 20 July 2023. The Tribunal wrote to the Applicant in the following terms:

"The legal basis of your application is not clear. You state that the tenancy deposit was returned, therefore, you do not seem to be seeking the return of the deposit. It would appear that you may be seeking to claim compensation in respect of the landlord's delay in returning the deposit, and the landlord's behaviour in relation to the cleaning of the property. Unless you can show that you have suffered actual loss as a result of the landlord's actions, it would seem that you do not have a legal

basis for your claim. Please consider withdrawing the application. We look forward to hearing from you 27 July 2023 in this regard."

The Applicant responded by email of the same date:

"I do not think it will matter anyway, as I cannot add much to previous statements. The landlord, according to regulations quoted in my application, should apply for the return of a tenants deposit as soon as possible after the end of the lease, so that the tenant receives it quickly. The landlord did not do this, and after three weeks tried to make me pay for cleaning in the property, although the final inspection when I left the property said "no cleaning required". I did apply for the return of my deposit, but still the landlord did nothing, and only applied for the return of my deposit after Jane, a manager at Clyde Property, phoned the landlord to discuss the non return of my deposit. And whatever she said to the landlord made her apply immediately for the return of my deposit. I should have received my £1990 at the beginning of February but received it on 9th March 2023. So I had over a month of anxiety about whether I would ever receive my deposit, which was a lot of money. At 78 years of age this was not something I could easily deal with, as well as having to contact the agent and the deposit scheme so many times. I do think the landlord should be reprimanded in some way for her behaviour. I cannot add any more to this application. Therefore I would be pleased if the President would please consider the application and decide if it should be accepted or rejected. Thank you."

Reasons for Decision

3. The Tribunal considered the application in terms of Rule 8 of the Chamber 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;·
(c) they have good reason to believe that it would not be appropriate to accept the application;

(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."

4. The application seeks to proceed under Rule 119. The Applicant has not disclosed legal basis for her claim nor has she established actual loss.

5. The Tribunal considers that it would not be appropriate to accept the application oin the circumstances. The application is accordingly rejected.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal 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.

A Strain

7 August 2023

Legal Member/Chair

Date