



**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/TE/23/2494

Parties

Regina Alonzi (Applicant)

Collete Scanlon-Riach (Respondent)

1 Connaught Place, Edinburgh, EH6 4QT (House)

A BACKGROUND

1. On 25.7.23 the applicant lodged with the First –tier Tribunal for Scotland, Housing and Property Chamber (the FTT) an application made under Rule 107 of the Procedural Rules. The applicant indicated she was seeking an order under S 16 of the Private Housing (Tenancies) (Scotland) Act 2016 (Act) and attached to the application a copy of a notice form under S 17 of the Act to the landlord dated 22.5.23, which referred to an application to the FTT to be made on the basis that the contract is ambiguous and states incorrect terms eg some of the deposit will be protected and

not all and that information had not been provided as required by S 11 of the Act. The notice is referred to for its terms.

2. On 16.8.23 the FTT wrote to the applicant in the following terms: "I refer to your recent application which has been referred to the Chamber President for consideration. Regarding your rule 107 application (application for payment order where landlord has failed to provide information : (1) please provide an address for the landlord. Once we receive this information your application will be considered further. Please reply to this office with the necessary information by 30 August 2023. If we do not hear from you within this time, the President may decide to reject the application.
3. On 22.9.23 the FTT again wrote with a 14 day deadline to provide the previously requested information. No reply was received.
4. The correspondence lodged in this case is referred to for its 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

107. Application for payment order where landlord has failed to provide information

Where the tenant makes an application under section 16(1) (to sanction failure to provide information) of the 2016 Act, the application must—

(a)state—

(i)the name and address of the tenant;

(ii)the name, address and profession of any representative of the tenant;

(iii)the name, address and registration number (if any) of the landlord; and

(iv)that the landlord has failed to provide the tenant with (either or both)—

(aa)a document setting out all the terms of the tenancy required under section 10([19](#));

(bb)information required under section 11,

of the 2016 Act;

(b)be accompanied by a copy of the notice given to the landlord under section 16(3)(c) of the 2016 Act; and

(c)be signed and dated by the tenant or a representative of the tenant.

D REASONS FOR DECISION

1. The Application is made under Rule 107 of the Procedural Rules. Rule 107 (a) (iii) of the Procedural Rules states that such an application must state the name, address and registration number (if any) of the landlord .
2. The Tribunal wrote to the applicant twice requesting the address of the landlord as required. The deadline for the latest submission of this information has now passed. The applicant has not engaged any further with the application process since the FTT had requested further information and has not provided any answer to the repeated requests for further information. It appears that the applicant is no longer insisting on the application. The application to date remains incomplete.
3. It would not be appropriate for the Tribunal to accept an application which does not meet all lodging requirements and is thus incomplete. The application is thus rejected because the landlord's address was not provided.

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

26 October 2023