

Housing and Property Chamber
First-tier Tribunal for Scotland



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/23/4160

Re: 4E Broughton Street Lane, Edinburgh, EH1 3LY ("the Property")

Parties

Mr Yicheng, Hank Li, Mr Kaiyang Dai (Applicant)

Mr Tobias Brewster-Mackinnon (Respondent)

Lovett Edinburgh (Respondent's Representative)

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).

Background

1. The application was received by the Tribunal under Rule 103 on 21 November 2023. The application was in respect of an alleged failure of the Landlord to protect a tenancy deposit under the **Tenancy Deposit Schemes (Scotland) Regulations 2011 (Regulations)**.

2. The application was considered by the Tribunal on 13 December 2023. The Applicant was asked to provide further information as follows:

"Before a decision can be made, we need you to provide us with the following: Please provide an address for the Respondent. A c/o address cannot be used. You should contact the letting agent and request an address for service of the application. If you cannot obtain an address you must make an application for service by advertisement using the form on the Chamber website and submit it with a trace report from a tracing agent or Sheriff Officer. Please reply to this office with the necessary information by 27 December 2023. If we do not hear from you within this time, the President may decide to reject the application."

3. The Applicant did not respond. The Tribunal wrote again by email of 29 January 2024 seeking a response by 12 February 2024.

No response was received.

Reasons for Decision

4. 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."

5. The application seeks to proceed under Rule 103 and Regulation 9 of the Regulations. Rule 103 is in respect of applications where it is alleged the landlord has failed to protect a tenancy deposit. The Applicant has failed to provide necessary information, namely, the address of the Respondent. The Tribunal cannot grant an order under Rule 103 without the information requested.

6. The Tribunal consider that the failure to provide the requested information constitutes good reason why the application should not be accepted. 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.



Legal Member/Chair

12 March 2024

Date