



**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 Darius Goulden in terms of rule 103 of the Rules.

**Case reference FTS/HPC/PR/24/1361**

At Glasgow on the 20 May 2024, 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) and (c) of the Rules.

1. This is an application by Mr Darius Goulden for a penalty in terms of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (‘the regulations’). The application was dated 18 March 2024 and received by the Tribunal on 22 March 2024.
2. The inhouse convenor reviewed the application and the tribunal wrote to the applicant on 25 March 2024 seeking further information as follows:

A Legal Member of the Tribunal with delegated powers of the President has considered your application. Please provide the following

1. The date that the tenancy ended, with evidence if this is available.
  2. If you are seeking repayment as well as compensation, a separate application on from F and in terms of Rule 111. Please note that application under Rule 103 must be lodged with all required information and documents no later than 3 months after the tenancy has ended. Please respond within 7 days or your application may be rejected.
3. The applicant did not respond with the end date of the tenancy but he made a rule 111 application. The Tribunal issued a reminder on 4 April 2024. The applicant sent a police report to the Tribunal on 11 April 2024 and on 16 April 2024 the Tribunal wrote to the applicant as follows:

A Legal Member of the Tribunal with delegated powers of the Chamber President has now considered both applications, together with your response dated 11 April 2024 to the Tribunal's requests for further information of 4 April 2024 and also of 11 April 2024. It is noted as follows:-

(1) You have still not advised of the end date of the tenancy ie. when you moved out. The Police Report you sent in contains details of an incident on 20 December 2023 when you allege that your landlord forced entry to the property and cut off your electricity. The Report also mentions an "illegal eviction" but does not state when this allegedly occurred. If you moved out of the tenancy on that date, you need to advise us of this, or advise what date you did move out. As previously advised, the tenancy end date is important as a Rule 103 application (PR/24/1361) must be submitted within 3 months of the tenancy end date. Please respond as a matter of urgency on this point.

(2) You do not appear to have responded to the further information request dated 4 April 2024 (copy attached) in respect of the Rule 111 application (CV/24/1459) at all. If you wish this application to progress further, we require your response to the various points raised.

(3) It is noted in your email of 11 April 2024 that you appear to have the assistance of Shelter. You may wish to seek their advice or assistance in relation to these applications. Please respond urgently in relation to application PR/24/1361 and by 30 April 2024 in relation to application CV/24/1459.

4. No reply was received. A further reminder was sent on 2 May 2024 and the applicant has not responded.
5. 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"**.
6. "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".
7. I consider that this application is frivolous or vexatious and has no reasonable prospect of success, as the essential information required for it to proceed has not been provided, despite a detailed request being sent by the Tribunal and three reminders. Further, in terms of Rule 8(c) of the rules I have good reason to consider that it would not be appropriate to accept this application as it is incomplete and the applicant has failed to cooperate with the Tribunal in the execution of its duties.
8. It is open for the applicant to resubmit the application with the correct supporting documentation, bearing in mind that in terms of regulation 9 of the regulations, an application must be made no later than three months after the tenancy has ended.

**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.

Lesley Anne Ward

Legal Member