

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of Karen Moore, Legal Member of the Firsttier 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 (Procedure) Regulations 2017 (“the Rules”)

Case reference FTS/HPC/PR/24/1364

Parties

Mr Stuart Kerr, Miss Ashley Blair (Applicants)
Mrs Lyudmyla Smith, Brian Smith (Respondents)

Braeside Cottage, Gartliston Road, Coatbridge, ML5 2FG (House)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be dismissed 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 22 March 2024.
2. The application was considered by the Tribunal and the Applicants were advised that the application had been received outwith the statutory time limit as set out in the Tenancy Deposit Schemes (Scotland) Regulations 2011. The Applicants disputed that the application was made late, and so, were asked by the tribunal chamber to provide evidence or information to support their claim. The Applicants were guided to the type of evidence or information required. The Applicants insisted that they had sent the required information to the tribunal chamber on 6 or 8 March 2024. The Applicants were advised that, following a search carried out by the tribunal chamber, the emails sending the information and the information could not be traced.
3. The Applicants were given guidance by the tribunal chamber on 25 March, 9 April and 21 May, all 2024, in respect of what was required to enable the application to be accepted. The Applicants were advised that failure to provide the required information and evidence might result in the application being rejected. In particular, in the tribunal chamber’s email of 21 May 2024, the Applicants were asked to provide the required information by 31 May 2024 or the application might be rejected.

4. By email dated 3 June 2024, the second named Applicant wrote : *“Hi, All this information has been provided previously. I also have an email that was sent from yourselves with no attachment which is supposed to have an attachment. This situation is just going round in circles from the start.”* None of the required information was submitted with that email.
5. The Applicants failed to submit the documentation necessary for the application to be accepted.

Reasons for Decision

6. 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.”*
7. The Tenancy Deposit Schemes (Scotland) Regulations 2011 sets a strict statutory time limit of three months from the end of the tenancy for an application under Rule 103 to be lodged. The Tribunal has no discretion to waive this time limit. In this case, the tenancy ended on 11 December 2023 and the application was lodged on 22 March 2024 and so Tribunal has no jurisdiction deal with the application.
8. The Tribunal considers that there is good reason why the application cannot be accepted. Accordingly, the application is 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.

K Moore

Legal Member

Date

4 June 2024