

Housing and Property Chamber
First-tier Tribunal for Scotland



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

Case reference FTS/HPC/PR/24/3044

Parties

Gregor Heath (Applicant)
Jugdeep Choongh (Respondent)

1/3, 1020 Argyle Street, Glasgow, G3 8LX (House)

1. By application received by the Tribunal on 4 July 2024 the Applicant sought a order against the Respondent under Regulation 9 of the Tenancy Deposit (Scotland) Regulations 2011. The application was made under Rule 103 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”).
2. Following receipt of the application the Tribunal wrote to the Applicant by email dated 5 July 2024 in the following terms:-

“A Legal Member has considered your application. Before your application can proceed we require you to provide us with the following information:-

• You have submitted an application under rule 103. However we note that you state in the application that you would “like the landlord to prove and timeline his intent to inhabit the property so that the eviction notice served is valid and legal” and “if failing to do so, I will seek the recover the full cost of moving”. An application under rule 103 can only deal with an alleged breach of the Tenancy Deposit (Scotland) Regulations 2011. You may be able to make a separate application to the Tribunal if you consider the landlord to have failed to comply with other statutory obligations however the Tribunal can only consider a breach of the 2011 Regulations under Rule 103. You may wish to amend your application and resubmit to the Tribunal.

• Please provide a copy of the certificate from SafeDeposits Scotland confirming the date of lodging of the deposit.

• Please provide a copy of the tenancy agreement you have with the landlord. If this is not available, please provide as much detail about the tenancy as possible, e.g. parties, start date, rent and deposit payable.”

3. The Tribunal received no response from the Applicant. On 25 July 2024 the Tribunal wrote again to the Applicant by email in the following terms:-

“As previously advised, Rule 103 can only be used to seek a penalty for a failure to comply with the Tenancy Deposit Regulation. If you are seeking any other orders, separate applications may be required.

1. Please clarify the address of the Respondent as the application indicates that he is not residing at the property address but it is the address you have specified. If this is the case, his current residential address is required or you must submit an application for service by advertisement with a trace report from a Sheriff Officer.

2. Please confirm the end date of the tenancy, with evidence if available.

3. Please provide the tenancy agreement and the SDS certificate referred to in the application. 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.”

4. The Tribunal received no response. On 14 August 2024 the Tribunal wrote to the Applicant by post in the following terms:-

“It is noted that you have not responded to two emailed requests for further information, as set out in the attached correspondence.

Please provide the requested information within seven days, or it is likely the application will be rejected.

Please be aware that we can only accept a Rule 103 application if it is made in full no later than 3 months after the end date of the tenancy.

If you no longer intend to progress the application, it would be very helpful if you would confirm that you wish to withdraw the application.”

5. Rule 8(1)(c) of the Rules allows an application to be rejected by the Chamber President if “they have good reason to believe that it would not be appropriate to accept the application”. The Applicant has failed to provide the information requested by the Tribunal which is required under Rule 103. The Applicant has been asked for the information on three occasions and has been made aware of the consequence of a failure to respond. Accordingly in the absence of any further information from the Applicant it would not be appropriate to accept the application and the application must be rejected.

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.

Ruth O'Hare

Ruth O'Hare, Legal Member
4 September 2024