

**Housing and Property Chamber**  
**First-tier Tribunal for Scotland**

---



**First-tier Tribunal for Scotland Housing and Property Chamber**

**Statement of Decision by the Chamber President under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Procedure Rules”)**

**In connection with**

**Chamber Ref: FTS/HPC/RN/24/3777**

**Parties:**

**Mrs Shagufta Siddique (Applicant)**

**Ms Kelly MacKay, care of Rent Locally (Respondent)**

**14/2 North Hillhouse Field, Edinburgh, EH6 4HU (House)**

**Tribunal Member: Mrs A Devanny, Chamber President**

**DECISION**

The Tribunal rejects the application paperwork submitted by the Applicant received by the Tribunal on 19 August 2024 as it is an incomplete application and furthermore is premature. The application is made under Rule 108 of The First tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Procedure Rules”). The rejection is made under Rule 8(1) (c) of the Procedure Rules.

## REASONS

The Applicant in this case is seeking to make an appeal under section 28(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). This provides that *“Where a rent officer has made an order under section 25(1) in relation to the rent payable under a private residential tenancy, the landlord or the tenant may appeal against the order to the First-tier Tribunal.”*

Rule 108 of The First tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Procedure Rules”) states the mandatory information and documents which must be submitted to constitute an application to the Tribunal. One such document is a copy of the rent officer’s order following an application made to the rent officer.

An application cannot be made to the Tribunal until an application has been made to the rent officer and the order of the rent officer has been issued. The role of the Tribunal is to consider appeals against the rent set by the rent officer.

It is for a party to make their application and the Tribunal cannot ignore the absence of mandatory information which is required by the legislative rules. At this stage the Tribunal takes the application at its highest but it cannot be ignored that a prescribed document, namely the order made by the rent officer, has not been provided and information which must be provided has been omitted. The application was incomplete when received by the Tribunal. The paperwork submitted with the application makes clear that a referral to the rent officer following the receipt of the rent-increase notice has not been made to the rent officer within the 21 days of the Applicant’s receipt of the notice and no order by the rent officer has been issued.

Section 24(3) of the 2016 Act provides that

*“A referral to a rent officer under subsection (1) must be—*

*(a) in the prescribed form,*

*(b) accompanied by the prescribed fee (if any),*

*(c) intimated by the tenant to the landlord in the prescribed manner, and*

*(d) made before the end of the day falling 21 days after the tenant receives the notice.”*

The Tribunal is not without sympathy for the Applicant’s personal circumstances but the Tribunal must apply the law and cannot consider an appeal against a decision of the rent officer when such a decision has not been made.

The application is at the stage of being considered under Rules 5 and 8 of the Procedure Rules. The application is accordingly rejected in terms of rule 8 (1) (c) of the Procedure Rules which states

*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—.....*

*(c) they have good reason to believe that it would not be appropriate to accept the application.*

### **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.**

# A Devanny

Mrs A Devanny  
Chamber President  
1 November 2024