



**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/CV/24/0130**

## **Parties**

**Miss Sarah-Jane Pirie (Applicant)**

**Ms Carol Lindsay (Respondent)**

**Flat7, 15 Riverview Drive, The Waterfront, Glasgow, G5 8EU (House)**

**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 111 on 10 January 2024.
2. The application was considered by the Tribunal and further information was requested by email of 22 July 2024 followed by reminder of 19 September 2024.

The Applicant was requested to provide:

*“Before a decision can be made, we need you to provide us with the following:*

*The Tribunal cannot provide advice. It is the responsibility of an Applicant to ensure all relevant documents and information is provided to constitute a valid application. The guidance for completing a valid application is available on the Tribunal website.*

*1. To answer your first question: Yes, it is the responsibility of the Applicant to provide the necessary evidence for any claim they wish to make.*

*2. The application made is not signed and dated and would thus not be valid. We had returned the document to you for completion, you have not completed it.*

*3. You must specify whether you wish to apply for a payment order or for an order for unlawful eviction. These are two different types of applications and have different requirements and legal tests. In your email of 17.3.24 you stated under 3. that you wish to proceed with civil proceedings and then under 7. that you wish to pursue an application under unlawful eviction. Please clarify which and either provide the information and documentation needed for the rule 111 application or withdraw this, lodge an application under the rule you think is more appropriate and provide the necessary documentation and information for that. The Tribunal is not permitted to provide legal advice.*

*4. You have still not explained on what basis you think any moneys are due to you. You have provided a text message asking you to move out and your reply that you sought advice from Shelter and would not do so. It is not clear from the information provided on what basis this would lead to any claim against your landlord. At present your application for payment under rule 111 remains incomplete. Unless you now provide the necessary documentation and information to complete this it will be rejected. Please provide the signed and dated application document. Please provide the exact amount you are seeking, the legal basis on which you are seeking such sums, documentation evidencing the facts on which you base your claim, the tenancy agreement with signature and date (or if this is not available the start date of the tenancy). Otherwise please withdraw your claim or it will be rejected.*

*5. It is still not clear what you refer to when you request a “rent repayment order” or what legislation this may relate to. You would have to provide reference to the applicable legislation and explain why this would apply.*

*6. Should you rather wish to make an application under rule 110 please go to the website and follow the guidance. You would have to evidence clearly how an unlawful eviction took place. The Tribunal cannot make enquiries with the Police on incident numbers and has not access to Police held information. It is up to the Applicant to provide any necessary evidence.*

*7. As the matters referred to appear to have taken place in 2022 it will no longer be possible for you to raise proceedings under rule 103 regarding the matter of whether or not the deposit was lodged with a deposit scheme, these applications can only be made up to 3 months after the tenancy end.*

*Please note that this will be the last opportunity for you to clarify all outstanding matters. Please reply to this office with the necessary information by 5 August 2024. If we do not hear from you within this time, the President may decide to reject the application."*

The Applicant failed to respond.

### **Reasons for Decision**

3. 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."*

4. The application seeks to proceed under Rule 111. The Applicant has failed to provide necessary information as detailed in paragraph 2 above. The Tribunal cannot grant an order under Rule 111 without the information requested. The Applicant has been warned on 22 July and 19 September 2024 that if the information was not provided then her application may be rejected.

5. The Tribunal consider that the failure to provide the required 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.**

# A. Strain

29 October 2024

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Legal Member/Chair

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Date