



**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 Sahil Rathod in terms of rule 110 of the Rules.

**Case reference FTS/HPC/PR/24/4332**

**Respondent Tofigh Khamisi**

At Glasgow on the 3 December 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) (c) of the Rules

1. This is an application by Mr Sahil Rathod in terms of rule 110 of the Rules. The application was made on his behalf by Mr Laurie Clark on 13 September 2024. Rule 110 relates to unlawful eviction. There was a second application in terms of rule 103 for a penalty in respect of a tenancy deposit. That application was accepted by the Tribunal.
2. The inhouse convenor reviewed the application and the Tribunal wrote to the applicant’s representative on 2 October 2024 seeking further information as follows:

You have submitted an application Form G which refers to both rules 103 and 110. Rule 103 applies to an application for payment of a sanction as a result of the landlord’s failure to lodge the deposit with a tenancy deposit scheme. Rule 110 applies to an application for a wrongful termination order. These are two separate statutory remedies. The Tribunal has therefore allocated two reference numbers – PR.24.4330 for the rule 103 application and PR.24.4332 for the rule 110 application.

- As you are proceeding under two different rules, please submit a Form G under Rule 103, and a separate Form G under Rule 110.

Application PR.24.4332 under Rule 110

- Please provide a signed copy of the tenancy agreement, if available.

- An application for a wrongful termination order can only be made where the tenant has been given a notice to leave, or has vacated the property following the granting of an eviction order. Please provide a copy of the notice to leave sent to the tenant, or a copy of an eviction order.
- The excerpt from Zoopla does not include the full property address. Please provide any further proof that the property was remarketed for let following the tenant's departure.
- You have stated in the application form that emails are attached however we do not appear to have received these.

3. The applicant's representative wrote to the Tribunal on 17 October 2024 regarding the Tribunal's query about the Zoopla advert. A copy of a tenancy agreement and a document purporting to be a notice to leave was provided.
4. The in-house convenor reviewed the application again and a further request for information was sent on 22 October 2024 as follows:

FTS/HPC/PR/24/4330 Further to our previous correspondence, please note that the above application has been accepted and will proceed to a tribunal for determination. Once the tribunal member(s) and a suitable venue have been scheduled, we will write to you with further information as to how your application will progress. Please note that the above application has been placed on hold to await the further information in respect of the below application. This is to enable both applications to be dealt with together.

FTS/HPC/PR/24/4332

A legal member of the First-tier Tribunal with delegated powers of the Chamber President considers that in order for the Tribunal to be able to process your application further the undernoted information /documentation is required:

- In terms of rule 110 and section 58 of the Private Housing (Tenancies) (Scotland) Act 2016 it is a requirement for the application to state why "The former tenant was misled into ceasing to occupy the let property by the person who was the landlord 2 under the tenancy immediately before it was brought to an end." Please explain in which way the applicant was misled by the respondent.
- The tenancy you submitted appears to have started in 2023. Please confirm whether you were a tenant under a previous tenancy for the same property. If the tenancy did not start until 2023 the tenancy would normally be a Private Residential Tenancy. The notice you submitted is not a Notice to Leave in terms of the 2016 Act and would thus not lead to the application of Section 58 and rule 110 because S 50 of the 2016 Act would not be applicable if no Notice to Leave had been served. Please explain why you consider the legislation applies in this case and how the applicant alleges he was misled. You may wish to obtain legal advice, which the Tribunal cannot provide. Please reply to this office with the necessary information by 5 November 2024. If we do not hear from you within this time, the President may decide to reject the application.

5. The applicant's representative did not respond.
6. The tribunal can reject an application in terms of Rule 8(c) if they have good reason to believe that it would not be appropriate to accept it. The Tribunal has sent a detailed request for information to the applicant's representative and he has failed to respond. He has failed to cooperate with the Tribunal in the execution of its

duties. As things stand the application is incomplete. I therefore have good reason to consider that it would not be appropriate to accept it.

**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.

# L Ward

Lesley Anne Ward

Legal Member