



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011

Chamber Ref: FTS/HPC/PR/24/3919

Re: Property at Haggsmount, Burnbank Street, Ecclefechan, DG11 3ED (“the Property”)

Parties:

Mrs Jacqueline Franklin, Haggsmount, Burnbank Street, Ecclefechan, DG11 3ED (“the Applicant”)

Mr Paul Cosimini, 28 Monkridge, Whitley Bay, North Tyneside, NE26 3EH (“the Respondent”)

Tribunal Members:

At Glasgow on 22 November 2024 Mary-Claire Kelly a 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).

1. The applicant submitted an application to the Tribunal on 23 August 2024. The application stated that it proceeded under rule 103 which relates to applications under regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011. The application stated that the applicant sought return of her deposit and did not provide any information in relation to a breach of the 2011 regulations.
2. The Tribunal wrote to the applicant on 27 August 2024 seeking clarification regarding the rule the applicant sought to proceed under. Information was also requested in relation to the deposit.
3. A further application was received from the applicant on 12 September 2024. The application stated that it also proceeded under rule 103 however no information was provided to establish a breach of the regulations.

4. The Tribunal wrote the applicant on 26 September 2024 requesting clarification as to what was sought and asking for further information in relation to the factual background to assist in determining whether the application could competently proceed. The information was requested within 14 days. The applicant was advised that she may wish to seek legal advice and that the application may be rejected if a satisfactory response was not received.
5. On 11 October 2024 the applicant responded by email. She stated that the only redress she sought was the return of her deposit.
6. On 28 October 2024 the Tribunal wrote to the applicant to advise that an application seeking return of the deposit required to be raised under rule 111 and not rule 103. The Tribunal requested that the applicant confirm that she seeks to withdraw the application or submit an amended application. A response was requested by 4 November 2024.
7. No response was received. The Tribunal sent a reminder letter seeking a response to the applicant on 28 November 2024 requesting a response by 13 December 2024 and advising that if no response was received the application may be rejected. No response was received,
8. Rule 8(1)(c) states that the Chamber President must reject an application if they have good reason to believe that it would not be appropriate to accept it. Documents and information necessary to establish the competency of the application have been requested and not provided. The applicant has failed to respond to reasonable requests by the Tribunal for further information. The applicant has failed to cooperate with the Tribunal in the execution of its duties.
9. The application is rejected as there is good reason to believe that it would not be appropriate to accept it.
10. It is open to the applicant to resubmit an application under the appropriate rule subject to any statutory time limits that may apply.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Mary-Claire Kelly

Legal Member 

Date 19 December 2024