

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rules 8(1) and 26 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Chamber Ref: FTS/HPC/PR/24/4450

406 North Anderson Drive, Aberdeen, AB16 7GL ("the Property")

Parties:

**Emily Fowler (Applicant)
David Fowler (Applicant's representative)
Mark Hale (Respondent)**

Tribunal Member: Ruth O'Hare (Legal Member)

Decision

The Tribunal rejects the application by the applicant received by it on 23 September 2024 under Rule 8(1)(c) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules").

Background

- 1 On 23 September 2024 the Applicant submitted an application under Rule 85 of the Rules to reduce the period of a notice to quit. The Applicant sought a payment order against the Respondent in the sum of £397.81, being funds retained from her tenancy deposit for rent arrears.
- 2 On 23 October 2024 the Tribunal wrote to the Applicant's representative. The Tribunal advised that the application could not be made under Rule 85 and requested confirmation as to whether the Applicant wished to withdraw the application. The Applicant was encouraged to seek legal advice as it was noted that the deposit had been adjudicated by the deposit scheme. Finally the Tribunal sought a current address for the Respondent, or an application for service by advertisement.
- 3 The Tribunal received no response. On 9 December 2024 the Tribunal wrote again to both the Applicant and the Applicant's representative with a copy of the previous request for information. The Applicant and her representative were advised that in the absence of response the application may be rejected.

Reasons

- 4 The Legal Member considered the application in terms of the Rules and determined that the application should be rejected in terms of Rule 8(1) (c) which states that an application must be rejected if the Tribunal has “good reason to believe that it would not be appropriate to accept the application.” The basis of the decision is that the Applicant has failed to provide the information requested by the Tribunal under Rule 5(3) of the Rules which is necessary to meet the required manner for lodgement. The Tribunal has also advised the Applicant that she cannot rely upon rule 85 however she has failed to establish jurisdiction under which the Tribunal can consider the matter. The Applicant has been asked for the information on two occasions. The Applicant has been warned that a failure to provide the information may result in the application being rejected. Accordingly the Legal Member has concluded that the application cannot be accepted in its current form and must be rejected under Rule 8(1)(c).

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: A party 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.

R.O'Hare

23 January 2025