



**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/24/5519**

**The Furze, Newburgh, Fife, KY14 6HH (House)**

**Parties:**

**M & M Contracts Ltd (Applicant)**

**Tribunal Member: Ruth O'Hare (Legal Member) with delegated powers from the Chamber President**

**Decision**

**The Tribunal rejects the application by the Applicant received by it on 28 November 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 28 November 2024 the Applicant submitted an application to the Tribunal under Rule 103 of the Rules and Regulation 9 of the Tenancy Deposit Scheme (Scotland) Regulations 2011 ("the 2011 Regulations"). The Applicant sought compensation as a result of their landlord's failure to pay their tenancy deposit into an approved tenancy deposit scheme.
- 2 On 4 December 2024 the Tribunal wrote to the Applicant following a review of the application by a Legal Member with delegated powers from the Chamber President. The Tribunal noted that the lease produced with the application purported to be an assured tenancy however no assured tenancies could competently be created following the introduction of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act"). Furthermore in terms of section 2 of the 2016 Act, the tenant must be an individual. The Tribunal asked the Applicant to clarify the type of tenancy that was the subject of the application. The Tribunal also requested the date of termination of the tenancy and asked the Applicant to resubmit the Form G application form clarifying the level of compensation they were seeking.

- 3 On 17 December 2024 the Tribunal received an email from Michael Poole, a director of the Applicant. He advised that the property was not rented as a holiday let and had been rented for a period of time whilst the Applicant's employees were working in the area. Mr Poole confirmed that he was authorised to represent the Applicant in the matter. He submitted an amended Form G which stated *"I would just like the deposit back please"*.

- 4 On 8 January 2025 the Tribunal wrote again to Mr Poole in the following terms:-

*"The tribunal acknowledges receipt of your letter dated 17 December 2024 and notes its contents. This does not properly nor fully deal with the issues raised in our previous email.*

*In the amended form G which relates to the application under rule 103 ( reference number FTS/HPC/PR/24/5519) ,you state that you " would just like the deposit back". Applications under rule 103 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 deal with claims under the Tenancy Deposit Schemes (Scotland) Regulations 2011 which allow the tribunal to make an award of up to three times the deposit if a landlord in respect of a relevant tenancy has failed to place a tenancy deposit with an approved scheme in accordance with the Regulations or has failed to provide the prescribed information. Your other application in Form F under rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (reference FTS/HPC/CV/24/5518) already appears to seek repayment of the tenancy deposit. Please confirm the specific amounts being sought in the rule 103 application.*

*Please explain why you believe that the tenancy which you have lodged and which appears to have been granted to a limited company falls within the relevant definitions under and in terms of the 2011 Regulations."*

The Tribunal suggested that the Applicant may benefit from seeking advice from Scottish qualified lawyers on the application.

- 5 On 21 January 2025 the Tribunal received an email from Mr Poole with an amended application Form G. The email did not address any of the other points raised in the Tribunal's request for information, in particular the basis upon which the application could proceed under the 2011 Regulations.

## **Reasons**

- 6 Having considered the application in terms of the Rules I have 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 respond to the Tribunal's requests for information, and in particular explain why they believe the tenancy between the parties falls within the relevant definitions under the 2011 Regulations. In the absence of this information the application cannot proceed any further at this time. There is

therefore good reason for me to believe that it would not be appropriate to accept the application.

7 The application is therefore 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.

# Ruth O'Hare

**Ruth O'Hare, Legal Member**  
**13 March 2025**