



DECISION AND STATEMENT OF REASONS OF NICOLA WEIR, LEGAL MEMBER OF THE FIRST-TIER TRIBUNAL WITH DELEGATED POWERS OF THE CHAMBER PRESIDENT

Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Procedure Rules")

Case Reference: FTS/HPC/PR/25/0362

88 Peden Avenue, Dalry, North Ayrshire, KA24 4BD ("the Property")

Alexandra Sim ("the Applicant")

1. The Applicant lodged an application under Rule 103 of the Procedure Rules (application for order for payment where landlord has failed to carry out duties in relation to tenancy deposits) in terms of Regulation 9 of The Tenancy Deposit Schemes (Scotland) Regulations 2011 ("the 2011 Regulations"), received by the Tribunal on 29 January 2025.
2. The application was considered by a Legal Member of the Tribunal acting under delegated powers from the Chamber President under Rule 9 of the Procedure Rules. An information request was sent by email to the Applicant on 3 February 2025 advising that the application was incomplete in that sections of the application form had been left blank so there was no specification of the order being sought by the Applicant; an address for the Respondent had not been provided, only the Respondent's letting agency details; the end date of the tenancy was not stated by the Applicant and it was explained that this was necessary due to the three-month time limit from the end date of the tenancy for such [complete] applications to be received by the Tribunal. The Applicant was also asked to provide any proof of her payment of the deposit and evidence from the three tenancy deposit schemes showing that the tenancy had not been protected in a scheme. The Applicant was asked to respond by 10 February 2025 and reminded of the time limit mentioned above and the possibility of an application being formally rejected by the Tribunal if the requested information was not provided.
3. No response was received from the Applicant. The application was accordingly reviewed again by a Legal Member of the Tribunal and a reminder sent to the Applicant by both email and post on 17 February 2025 which stated as follows:-
"Your application has been further reviewed by a legal member of the First-tier

Tribunal with delegated powers of the Chamber President.

It is noted that you have failed to provide the further information requested by email dated 3 February 2025.

That email also clearly indicated that that applications under The Tenancy Deposit Schemes (Scotland) Regulations 2011 cannot be made later than 3 months after the tenancy has ended and that the date the application is held to be made is the date the Tribunal receives the last of any outstanding documents necessary to meet the required manner of lodgement. It is the responsibility of the Applicant to ensure that any application is made with all necessary information/documentation within that time, regardless of any reply date stated on correspondence, otherwise the application will have to be rejected. The Tribunal has no discretion to extend this time limit. When did your tenancy end? You seem to indicate that it ended on 11 November 2024.

We now write to advise you that if you fail to provide this information by 3 March 2025 the tribunal will have no option but to reject your applications. We also attach the prior email from 3 February 2025 for your reference.

You should be aware that the Tribunal has the power to reject applications on grounds set out in rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations.

If you require any further information, please contact us, quoting your reference number.”

4. The email and letter from the Tribunal requested a response from the Applicant by 3 March 2025 but, to date, there has been no response from the Applicant.

Decision

5. Following further consideration of the application the Legal Member considers 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.”

Reasons for Decision

6. Rule 5 of the Procedure Rules states that an application “is held to have been made on the date that it is lodged if, on that date, it is lodged in the manner as set out in...” the relevant Rule. In terms of Rules 5(2) and (3) the Chamber President or a Member with delegated powers must assess whether the “mandatory requirements for lodgement have been met” and “may request further documents”.
7. The Applicant has failed to meet the mandatory requirements for lodgement. These requirements have been explained to the Applicant who has been given two opportunities to provide any documentation required or clarify the position. However she has failed to do so. Both email communications to the Applicant made it clear that, in the absence of a response, the application may be rejected and/or time-barred in any event.
8. The Applicant has failed to comply with Rules 5 and 103 of the Procedure Rules

and with Regulation 9(2) of the 2011 Regulations. In the circumstances, the Legal Member is satisfied that there is good reason to believe that it would not be appropriate to accept the application. The application is rejected on that basis.

What you should do now

If you accept the Legal Member's decision, there is no need to reply.

If you disagree with this decision –

An applicant aggrieved by the 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 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. Information about the appeal procedure can be forwarded to you on request.

Nicola Weir

Nicola Weir, Legal Member
18 March 2025