



**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/24/5538**

**11C West High Street, Crieff, PH7 4AU ("the Property")**

**Parties:**

**Callie Henderson, Douglas Allan ("Applicant")  
Mona Morrow ("Applicant's representative")**

**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 3 December 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 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") requesting an order for payment against the Respondent as a result of their failure to lodge the Applicant's tenancy deposit with a tenancy deposit scheme.
- 2 Following review of the application by a Legal Member of the Tribunal with delegated powers from the Chamber President the Tribunal wrote to the Applicant's representative on 5 December 2024 in the following terms:-

*"• It is noted that no written tenancy agreement was provided to the Applicant. Please provide as much information as you can about the tenancy such as the start and end date, the name of the tenant / tenants, the name of the landlord, the rent payable and the deposit payable.*

- *You have named a representative in the form. Please provide evidence of the representative's authority to act such as an email from the Applicant confirming the position.*

- *Please provide evidence of the deposit being paid, the amount paid and the date of payment. The screenshots which you have lodged are only partially legible.*

- *You state that the application is brought under rule 103. That rule covers applications for payment of compensation where a landlord has failed to comply with the Tenancy Deposit Schemes (Scotland) Regulations 2011. Your application appears to seek recovery of a deposit paid which would be an application under rule 109. Please clarify the order sought and whether you wish to amend the rule under which the application is brought."*

The Applicant's representative was asked to provide a response no later than 19 December 2024, failing which the Chamber President may decide to reject the application.

- 3 The Tribunal received no response. On 14 January 2025 the Tribunal emailed the Applicant's representative again requesting the information by 28 January 2025. The Tribunal advised that a complete application under Rule 103 must be received by the Tribunal no later than three months after the end date of the tenancy, and if the information was not provided it was likely that the application would be rejected by the Chamber President.
- 4 No response was received by the Applicant's representative. On 12 February 2025 the Tribunal wrote to the Applicant's representative in the following terms:-

*"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:*

- 1. The Tribunal has already asked you twice for the end date of the tenancy, which is information that is required for a valid application. Provide this now or the application will be rejected.*

- 2. You have been asked for details of the tenancy. The tenancy agreement or as much information as possible if that is not available is again a necessary part of a valid application. Provide this now or the application will be rejected.*

*If you wish to get the deposit paid back, this is the wrong type of application. Please withdraw this and make an application under rule 109 instead. Please note 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 and that applications under The Tenancy Deposit Schemes (Scotland) Regulations 2011 cannot be made later than 3 months after the tenancy has ended. 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.*

*Please reply to this office with the necessary information by 19 February 2025. If we do not hear from you within this time, the President may decide to reject the application.”*

- 5 The Tribunal received no further response from the Applicant’s representative.

### **Reasons for Decision**

- 6 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.

- 7 The provisions of Rule 13 of the Rules state:-

*“Where a tenant or former tenant makes an application under regulation 9 (First-tier Tribunal orders) of the 2011 Regulations, the application must—*

*(a) state—*

- (i) the name and address of the tenant or former tenant;*
- (ii) the name, address and profession of any representative of the tenant or former tenant; and*
- (iii) the name, address and registration number (if any) of the landlord;*

*(b) be accompanied by a copy of the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the tenant or former tenant can give;*

*(c) evidence of the date of the end of the tenancy (if available); and*

*(d) be signed and dated by the tenant or former tenant or a representative of the tenant or former tenant.”*

- 8 The application contains no information regarding the tenancy, nor does it include evidence of the end date of the tenancy. The latter is required in order for the Tribunal to determine whether the application has been made timeously in accordance with Regulation 9 of the 2011 Regulations, which requires the application to be submitted within three months of the tenancy end date.
- 9 The Applicant’s representative has been asked for the information on several occasions. They have been warned that a failure to provide the information may result in the application being rejected. The Applicant’s representative has also been warned about the statutory deadline for an application under Rule 103.

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

**21 February 2025**