



**DECISION AND STATEMENT OF REASONS OF PETRA HENNIG MCFATRIDGE 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 Procedural Rules")

in connection with

Case reference FTS/HPC/CV/25/2487

Parties

Dr Ashraf Ghouse (Applicant)

24 Hill Avenue, Newton Mearns, Glasgow, G77 6BL (House)

1. The application under Rule 111 of the Procedural Rules S 71 of the Private Housing (Tenancies) (Scotland) Act 2016 by the Applicant was received by the First-tier Tribunal, Housing and Property Chamber (FTT) on 9.6.2025. The Applicant did not provide a copy of the tenancy agreement and stated in the application part 7 a rule 111 but also that the application was actually an application "under Regulation 9 of The Tenancy Deposit Schemes (Scotland) Regulations 2011".
2. The Applicant narrated that the tenancy was entered into on 22.5.2023 and ended on 22 .2.2025, that the landlord had failed to lodge the deposit within 30 working days, had not provided the prescribed information, had returned the deposit in cash and was not registered. He requested in the paper apart for the FTT to " award an appropriate sum under Regulation 10, which allows for compensation up to three times the deposit amount."
3. On 14.7.2025 the FTT wrote to the Applicant in the following terms: The in-house

convenor has reviewed the application. You have made an application under rule 111 which is for civil proceedings arising out of a private residential tenancy, however in your covering statement you refer to seeking a penalty for failure to lodge a penalty deposit. You made your application on 9 June 2025 and you told us your tenancy came to an end on 22 February 2025. An application for a penalty should be made under rule 103, however this must be made within 3 months of the tenancy coming to an end. If your application is for a penalty in terms of regulation 9 of the Tenancy Deposit regulation, this should have been made within 3 months of the tenancy coming to an end, namely by 22 May 2025. The tribunal have no discretion to extend this time limit. Please clarify if your application is in fact a rule 103 application and also confirm you are withdrawing it, filing which it will be rejected on the basis it is time barred. If you wish to proceed with a rule 111 application, please amend it to remove all reference to a penalty under the Tenancy Deposit Regulations and set out what order you are seeking from the tribunal. Please also provide a copy of the tenancy agreement. If there is more than one tenant please amend the application to include the other tenant or provide their consent to matters proceeding in your sole name. Please reply to this office with the necessary information by 28 July 2025. If we do not hear from you within this time, the President may decide to reject the application

4. No reply has been received.
5. All correspondence is referred to for its terms and held to be incorporated herein brevitatis causa.

DECISION

6. I considered the application in terms of Rule 8 of the Procedural Rules. That Rule provides:-

"Rejection of application

8.—(1) The Chamber President or another member of the First-tier Tribunal under the delegated powers of the Chamber President, must reject an application if –

- (a) they consider that the application is frivolous or vexatious;*
- (b) the dispute to which the application relates has been resolved;*
- (c) they have good reason to believe that it would not be appropriate to accept the application;*
- (d) they consider that the application is being made for a purpose other than a purpose specified in the application; or*
- (e) the applicant has previously made an identical or substantially similar*

application and in the opinion of the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, there has been no significant change in any material considerations since the identical or substantially similar application was determined.

(2) Where the Chamber President, or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, makes a decision under paragraph (1) to reject an application the First-tier Tribunal must notify the applicant and the notification must state the reason for the decision."

7. After consideration of the application, the attachments and correspondence from the Applicant, I consider that the application should be rejected in terms of Rule 8 (c) of the Rules of Procedure on the basis as the FTT has good reason to believe that it would not be appropriate to accept the application.

REASONS FOR DECISION

8. Relevant provisions:

Regulation 9 of The Tenancy Deposit Schemes (Scotland) Regulations 2011

9 (1) a tenant who has paid a tenancy deposit may apply to the First tier Tribunal for an order under regulation 10 where the landlord did not comply with any duty in regulation 3 of that tenancy deposit.

(2) an application under paragraph (1) must be made no later than 3 months after the tenancy has ended.

Reasons:

9. First of all it is clear that the rule quoted by the Applicant in the application was the wrong rule. He clearly did not wish to make a civil application in terms of rule 111 but stated repeatedly that the application related to the issue of an alleged non compliance with The Tenancy Deposit Schemes (Scotland) Regulations 2011 and specifically the provisions of Regulations 9 and 10 and requested an amount to be awarded as set out by Regulation 10. I have thus considered the application as an application under rule 103, which is the appropriate rule for such applications.

10. It would not be appropriate for the Tribunal to accept an application after the expiry of the period during which such an application can be made. The legislation is clear. In terms of regulation 9 as set out above, an application under regulation 10 of The Tenancy Deposit Schemes (Scotland) Regulations 2011 can only be made no later than 3 months after the tenancy has ended and can only be made against a landlord.
11. In terms of rule 5 of the Rules of Procedure “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 rules 103... as appropriate.” Rule 5 (c) states that the FTT President or another member under delegated powers may request further documents and the application is to be held to be made on the date the FTT receives the last of the outstanding documents necessary to meet the required manner for lodgement. An application 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
12. According to the information provided with the application, the tenancy ended on 22.2.2025. The date 3 months after that end date is thus 22.5.2025. The application was only received by the FTT on 9.6.2025 and in terms of rule 5 of the Procedure Rules is currently still not complete. The Applicants did not provide a copy of the tenancy agreement as required in rule 103 (b). As at the time the application was received it was incomplete. The 3 months period had expired. At this time the application can no longer be completed and validly made within the time limit stated in Regulation 9.
13. There is no provision that would give the FTT the authority to extend the statutory time limit set out in Regulation 9 of The Tenancy Deposit Schemes (Scotland) Regulations 2011.
14. It would not be appropriate to accept such an incomplete application, which can no longer be completed within the statutory time limit.
15. The application under rule 103 is thus rejected because it was made later than 3 months after the tenancy had ended and was not lodged in accordance with rule 103 of the Rules of Procedure.
16. Incidentally, if considering the application as an application under rule 111, which is the rule entered into part 7a of the application form, then the application again does not meet the lodging requirements for such an application. Rule 111 requires the

application to be accompanied by evidence to support the application and a copy of any relevant document. It requires the Applicant to state the reason for making the application. The application form requires the Applicant to enter the details of the order the Applicant is seeking. All the information provided related to an application under rule 103, not a civil application. The Applicant did not specify the amount of the order he is seeking or the legal basis, other than The Tenancy Deposit Schemes (Scotland) Regulations 2011. He did not provide the tenancy agreement. Without the order sought being specified and the tenancy agreement or other documentation evidencing a claim being lodged, the application does not conform with the requirements stated in rule 111 (a) (iii) and (b) (i) and (ii) of the Rules of Procedure. The Applicant was asked to clarify matters and to provide the tenancy agreement, he did not do so.

17. It would thus not be appropriate to accept the application under rule 111 either.

18. The application is thus rejected in terms of rule 8 of the Rules of Procedure.

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.

