

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of Alan Strain, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber)

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

Chamber Ref: FTS/HPC/PR/25/2998

Parties

Ms Sara Jastrzebski, Miss Sarune Malukaite (Applicant)

Flat 2/10 160 Bothwell Street, Glasgow, G2 7EA (House)

Tribunal Member:

Alan Strain (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be rejected on the basis that it is frivolous within the meaning of Rule 8(1)(a) of the Procedural Rules.

Background

1. The Applicant submitted the application under Rule 103 on 11 July 2025. The application was in respect of an alleged failure of the Landlord to protect a tenancy deposit under the **Tenancy Deposit Schemes (Scotland) Regulations 2011 (Regulations)**.

The Applicant was asked by the Tribunal to provide further information by email of 17 July 2025 as follows:

"Your application has been assessed by a Legal Member of the Tribunal with the delegated authority of the Chamber President. The Legal Member has requested the following information or documentation which should be provided as a matter of urgency:

1. Please provide evidence of the end date of the tenancy. A Rule 103 application can only be accepted if made in full within 3 months of the end date of the tenancy. If the application is time-barred, please confirm that you are withdrawing it.

2. *If the application is not time-barred, please amend the Respondent on the application form as the application can only be made against the landlord, and not the letting agent. Please provide full contact details for the Respondent. Please provide evidence to show payment of the deposit – this must show the date of payment and the amount of the deposit Please reply to this office with the necessary information by 31 July 2025. If we do not hear from you within this time, the President may decide to reject the application.”*

2. The Applicant responded by email of 31 July 2025 sent after close of business and informed the Tribunal that the tenancy ended on 30 April 2025. The Applicant also advised the name of the landlord along with a care of address.

3. The ***Tenancy Deposit Schemes (Scotland) Regulations 2011 (Regulations)*** clearly provide in terms of Regulation 9.2 that an application “*must be made no later than 3 months after the tenancy has ended.*” The Tribunal has no discretion to extend the time limit or allow an application late. If an application is received after the expiry of the 3 month time limit in Regulation 9.2 then that is an end of the matter notwithstanding any explanation that may be advanced by an Applicant.

Reasons for Decision

4. The Tribunal considered the application in terms of Rule 8 of the Chamber 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;·
(c) they have good reason to believe that it would not be appropriate to accept the application;

(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."

5. 'Frivolous' in the context of legal proceedings is defined by Lord Justice Bingham in ***R v North West Suffolk (Mildenhall) Magistrates Court, (1998) Env. L.R. 9***. At page 16, he states: - “*What the expression means in this context is, in my view, that the court considers the application to be futile, misconceived, hopeless or academic*”.

6. The application seeks to proceed under Rule 103 and Regulation 9 of the Regulations. Regulation 9.2 provides that such applications should be made no later than 3 months after the tenancy has ended. Whilst the Applicant has submitted the application within the 3 months' time limit the application was incomplete and did not contain the landlord's details. The Applicant has provided the name of the landlord after the expiry of the time limit and has not provided an address for the landlord (a

care of address is not acceptable). The application remains incomplete. The application is out of time and the Tribunal cannot grant the order sought.

7. Applying the test identified by Lord Justice Bingham in the case of ***R v North West Suffolk (Mildenhall) Magistrates Court*** (cited above) the application is frivolous, misconceived and has no prospect of success. The application is accordingly rejected.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal 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.

5 August 2025

Legal Member/Chair

Date