



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 8(1)(c) of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”)**

**Chamber Ref: FTS/HPC/CV/24/5386**

**Re: Property at 38 Mclean Gardens, Stonehouse, Lanarkshire, ML9 3LU (“the Property”)**

**Parties:**

**Miss Adelle Smith, 175 Murray Drive, Stonehouse, South Lanarkshire, ML9 3NJ (“the Applicant”)**

**Tribunal Members: Ruth O’Hare, Legal Member with delegated powers from the Chamber President**

**Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it had good reason to believe that it would not be appropriate to accept the application received by it on 22 November 2024. The Tribunal therefore rejects the application under Rule 8(1)(c) of the Rules.

**Background**

- 1 On 22 November 2024 the Tribunal received an application from the Applicant, in terms of which the Applicant sought to rely upon rule 70 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicant requested a refund of a rent increase imposed by her landlord, and stated that her landlord had not paid her deposit into a tenancy deposit scheme. The application was conjoined with the separate application under reference FTS/HPC/PR/24/5388 as it related to the same parties and the same tenancy.
- 2 In terms of Rule 5(2) of the Rules a Legal Member with delegated powers from the Chamber President reviewed the application to assess whether it had been

lodged in the required manner. Following said review the Tribunal wrote to the Applicant in the following terms:-

*"In section 5(C) of the application form you are required to set out the details of the order being sought from the tribunal.*

*You have not indicated the total sum that you seek to be awarded. You indicate that you believe your landlord has overcharged rent but you have provided no details of the amount involved, the dates when the charges were made or the date upon which your tenancy may have ended.*

*Can you please clarify matters and confirm the amount being sought together with your explanation setting out why you believe this tribunal has the power to make any such award? Rent increases normally require to be challenged at the time of imposition and there is a specific procedure for such challenges. Please provide copies of any relevant notices increasing the rent.*

*In that part of the application form you also seem to allege that your landlord did not put your rent deposit in a tenancy deposit scheme. Are you seeking to make a claim 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 has failed to place a tenancy deposit with an approved scheme in accordance with the Regulations or has failed to provide the prescribed information?*

*If you wish to raise an application under these regulations, please lodge a separate application form. Please note 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.*

*The tenancy agreement which you have lodged shows that you have joint landlords, namely David Brown and Jacqueline Brown. Your application bears to be against David Brown only. Please advise whether you wish to add Jacqueline Brown as a second respondent.*

*Further queries may arise upon receipt of your response and examination of any additional documents lodged.*

*The tribunal would suggest that you may find it useful to seek independent legal advice on this application, the matters contained in this letter and any further action which you wish to take. Upon receipt of the above information, a final decision can then be taken on whether the application is valid and whether it should be accepted and referred to the tribunal for full determination.*

*If you fail to respond to this letter then the tribunal may reject your application. 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 2017.*

*Please reply to this office with the necessary information by 31 December 2024. If we do not hear from you within this time, the President may decide to reject the application.”*

- 3 On 19 December 2024 the Tribunal received a response from the Applicant by email which stated “*I have contacted a lawyer and I am awaiting instructions from them*”.

- 4 On 11 February 2025 the Tribunal wrote again to the Applicant in the following terms:-

*“On 19 December 2024 you advised the Tribunal that you are seeking legal advice. Please now confirm whether you intend to proceed with this application and if so provide the information requested by the Tribunal in the email dated 17 December 2024.*

*Please reply to this office with the necessary information by 25 February 2025. If we do not hear from you within this time, the President may decide to reject the application.”*

- 5 On 11 February 2025 the Tribunal received an email from the Applicant. The Applicant advised that she did not know how to get forms to amend to Rule 111 and her lawyer had not replied to her. The Tribunal responded to the Applicant by email on 13 February 2025, stating that it was not in a position to provide her with advice. The Tribunal directed the Applicant to details of advice agencies on the Tribunal’s website.

- 6 The Tribunal heard nothing further from the Applicant. On 14 April 2025 the Tribunal wrote to the Applicant in the following terms:-

*“We refer to the tribunal’s previous requests for information regarding your applications CV.24.5386 and PR.24.5388.*

*We have attached copies of those requests for convenience. You have previously indicated that you were seeking legal advice however we are yet to receive a reply from you with the information requested.*

*Your applications cannot proceed without this information. We now write to advise that if you fail to provide a full response your applications will have to be rejected.*

*We will allow you a final opportunity to submit the requested information for both applications. Please do so within fourteen days.*

*Upon receipt of the information, we may have further queries for you before a decision is made on whether the applications can be referred to a tribunal for full determination.”*

- 7 On 14 April 2025 the Tribunal received an email from the Applicant stating “*My lawyer hasn’t answered me back and I don’t know how to do any of this myself. Is there no one who can help me?*”. The Tribunal responded to the Applicant on 29 May 2025 in the following terms:-

*“We refer to your email of 14 April 2025 which has been considered by a Legal Member of the Tribunal.*

*The Tribunal cannot provide you with advice. It is your responsibility to submit all of the documents requested to meet the requirements of the Tribunal’s rules of procedure. If you are unable to do so at this time, we would respectfully suggest you withdraw your applications and re-submit once you have had the opportunity to take advice. You can find details of housing advice agencies under the Useful Links section of the Tribunal website.*

*Please confirm that your applications can now be withdrawn. Should you fail to do so, or fail to provide the information previously requested, your applications will likely have to be rejected and a decision published on the Tribunal’s website.*

*Please reply to this office with the necessary information by 12 June 2025. If we do not hear from you within this time, the President may decide to reject the application.”*

- 8 No further response was received from the Applicant.

### **Reasons for decision**

- 9 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.”
- 10 The basis of the decision is that the Applicant has failed to provide the information requested by the Tribunal. In terms of Rule 5(3) of the Rules, the Chamber President or another member of the Tribunal under the delegated powers of the Chamber President, may request further documents if it is determined that an application has not been lodged in the prescribed manner. The application in its current form does not meet the mandatory requirements for lodgement. The Applicant has been asked for further information on several occasions. She has been directed to sources of independent advice to assist her with her application. She has been warned that a failure to provide the information may result in the application being rejected. The Applicant has therefore been given ample opportunity to address the outstanding matters. Nearly eight months have now passed since the application was submitted. Accordingly the Legal Member has concluded that the Applicant’s failure to

provide the information constitutes good reason to reject the application under Rule 8(1)(c).

### **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.**

# Ruth O'Hare

**12 July 2025**

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**Legal Member/Chair**

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**Date**