



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/PR/24/5388

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 47 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicant requested reimbursement of costs incurred as a result of the landlord’s failure to maintain the property in a reasonable state of repair. The application was conjoined with a separate application under reference FTS/HPC/CV/24/5386 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:-

"1. You have applied under Rule 47 of the Tribunal Rules. This Rule applies if the a landlord or tenant does not want the statutory repairing standard to apply. From the statement which accompanies your application, it appear that your claim is for compensation or damages. The Rule for a monetary claim is Rule 111. If your application is a claim for compensation or damages arising from repairs or other tenancy issues, you should write to us to confirm that this is the case and confirm that you are amending the Rule cited to Rule 111.

2. Although you have provided detail of your claim for compensation or damages, you must provide evidence in support of your claim (photographs, receipts, all correspondence between you and your landlord intimating the claim to them and their response) and you must state the amount of compensation or damages which you seek.

3. You should provide evidence and an amount for each element of your claim.

4. As with your application CV/24/5386, you should confirm if the Application should be amended to refer to both landlords.

Please reply to this office with the necessary information by 6 January 2025. If we do not hear from you within this time, the President may decide to reject the application."

- 3 On 23 December 2024 the Tribunal received the following response from the Applicant by email:-

"Yes I would like to ammend the application to refer to Jacqueline Brown aswell. David Brown acted as the landlord and his wife had the money paid into her bank account! I would like to claim for damages to my furniture and clothes so yes amend the rule to 111. I would like to seek £3,000 in total as I had to pay for removal of furniture and replace what was damaged. They also overcharged me rent as it was only a 3% rise at the time and they added £90 per month on top of my rent from April 2023 to August 2024. My mental health suffered due to this landlord and i had to attend a psychologist."

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

"Please provide an amended application form which states that it is made under rule 111 and shows the respondent as being both of the joint landlords.

You have stated that you seek to recover damages of £3000. Please provide a breakdown of that figure attributing a figure to each element of your claim. You must also provide evidence to support your claim such as photographs of damaged items, correspondence from you to your landlord intimating the claim along with any response received and vouching for your claim such as receipts for replacing damaged items.

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

Legal Member/Chair

Date