

Housing and Property Chamber
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF JOAN DEVINE, 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 Rules")**

in connection with

60 Kinghorne Road, Dundee DD3 6PU ("the Property")

Case Reference: FTS/HPC/PR/25/3741

**Elizabeth McGrother, Flat 1 up, 6 Cleghorn Street, Dundee DD2 2NR ("the
Applicant")**

1. The Applicant lodged form G dated 31 August 2025. The Respondent was stated to be Belvoir Dundee. At section 7 (a) the Applicant stated that the application was made under rule 103. At section 7(c) the Applicant stated that the order sought was "*I would like my deposit back and compensation for borrowing money to pay for my current tenancy at my expense*". The Applicant lodged a copy email dated 5 May 2025 which stated that the tenancy ended on 5 June 2025.
2. By email dated 5 September 2025 the Tribunal sought further information from the Applicant as follows :
 - You have made an application under rule 103 for payment of compensation following a landlord's failure to lodge a deposit in an approved scheme timeously. The Respondent in the application should be your former landlord. You have however named the Respondent as being the letting agent. You must lodge an amended application in which the Respondent is your former landlord. Applications under rule 103 must be lodged and accepted within 3 months of the tenancy end date. It is noted the tenancy ended on 5 June 2025. **You must therefore provide the amended application by tomorrow, 5 September 2025. The Tribunal has no discretion to extend this time limit.**
 - Please confirm the amount of the deposit paid and the amount of compensation sought in this application.

- Please provide evidence of the deposit being paid, if available, such as a screen shot of a bank transfer.
- At section 7 (c) you state that you seek compensation and also “I would like my deposit back”. If you also seek return of your deposit you need to make a separate application under rule 111 on form F. Such an application is not subject to the 3 month time limit.
- Please check whether the address you have provide and email on the application are correct.

3. The Applicant responded to the Tribunal by email dated 5 September 2025 stating that the deposit paid was £825 and that the compensation sought was £2475. The Applicant did not lodge an amended application providing the name of their former landlord as the Respondent.

DECISION

4. The Legal Member 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;
- (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.

- 5. After consideration of the Application and documents lodged in support of same the Legal Member considers 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.**

Reasons for Decision

6. 'Frivolous' in the context of legal proceedings is defined by Lord Justice Bingham in *R v North West Suffolk (Mildenhall) Magistrates Court*, (1998) Env LR9. He indicated at page 16 of the judgment; "What the expression means in this context is, in my view, that the court considers the application to be futile, misconceived, hopeless or academic". It is that definition which the Legal Member has considered as the test in this application, and on consideration of this test, the Legal Member considers that this application is frivolous, misconceived and has no prospect of success.
7. The application was made under rule 103 which is applications where a landlord has failed to carry out their obligations relating to tenancy deposits. The Applicant stated that they sought their deposit back and compensation of £2475 which is 3 times the deposit paid. An application for return of a deposit is a general civil application which should be brought under rule 111 and lodged on form F.
8. It appeared that the Applicant was seeking an order for payment of compensation following a landlord's failure to lodge a tenancy deposit in an approved scheme under section 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 ("2011 Regulations"). Such applications must state the name and address of the landlord and, in terms of section 9(2) of the 2011 Regulations, must be made no later than 3 months after the tenancy has ended.
9. The application lodged did not state the name and address of the landlord. The documents lodged indicated the tenancy ended on 5 June 2025. An application under section 9 of the 2011 Regulations would therefore require to be lodged and accepted by the Tribunal by 5 September 2025. The further information provided by the Applicant by email dated 5 September 2025 was inadequate to make the application competent. Any further information or amended application lodged after 5 September 2025 would come too late. In all the circumstances, the Legal Member determines that the Application is frivolous, misconceived and has no prospect of success. The Application is rejected on that basis.

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.

J.Devine

Legal Member

11 September 2025