



**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/PR/25/3255

Mr Khaled Mousa Hashim (Applicant)

18 Mallots View, Newton Mearns, Glasgow, G77 6FE (House)

1. The application dated 28.7.2025 was made to the First-tier Tribunal, Housing and Property Chamber (FTT) under Rule 103 of the Procedural Rules under regulation 9 of The Tenancy Deposit Schemes (Scotland) Regulations 2011.
2. The applicant stated in the attached the following documents, which are referred to for their terms and held to be incorporated herein: tenancy agreement in his own name, email in connection with the start of the tenancy agreement in 2019 with receipt of

deposit, gas safety check complaint to HSE and emails from the three deposit scheme providers. The applicant explained that he had not occupied the property at any point and that the tenancy agreement with him from 2019 was entered into as he was financially able to pay rent. Ultimately he explained that this was then replaced by a tenancy agreement in the name of his ex partner once she was able to pay the rent. The change happened in 2021 and the tenancy agreement in her name was backdated to 2019.

3. On 1.8.25 the Tribunal wrote to the applicant in the following terms: Thank you for your recent application which has been reviewed by a Legal Member of the Tribunal with delegated powers of the President. Please provide the following further information: 1. Please confirm the date on which the tenancy terminated.
4. On 7.8.2025 he replied: 1. Tenancy Termination Date The tenancy agreement for this property was originally created in my name in September 2019. In September 2021, the landlord created a new tenancy agreement in the name of xxxx (name of ex partner). I received an email from the landlord at that time confirming that the tenancy agreement had been changed to xxxx. In June 2025, the landlord terminated the tenancy agreement with xxxx. I was informed by the landlord that my tenancy agreement was also terminated at the same time, although I do not have written documentation confirming the termination of my tenancy.
5. On 11.8.2025 the Tribunal requested the following information: Please clarify the nature of the tenancy and when it came to an end. On reviewing both applications it appears that there are two agreements each of which has a start date of June 2019. One is in your name and the other in the name of xxxx. Please advise if you were joint tenants from 2019 and if you both lived at the property from that date. If you subsequently vacated the property, did the tenancy become a sole tenancy in the name of xxxx. You must provide the exact date that your tenancy ended and clarify whether you were the sole or joint tenant at that time...
6. The applicant replied on 22.8.2025 explaining: 1- Initial Tenancy Agreement: My tenancy agreement with the landlord commenced on July 29, 2019. I am attaching a welcome letter from the landlord dated July 18, 2019, which predates the agreement and outlines the initial steps for creating the tenancy in my name. 2- Tenancy Purpose: The tenancy was established solely in my name to secure the property for my ex-partner, xxxx, and our three children. Xxx lacked the necessary credit and financial resources to obtain the tenancy herself. I did not reside at the property. My primary residence was elsewhere. ...4- Change of Tenancy to xxx: In September 2021, after approximately two years, I requested the landlord transfer the tenancy to xxx, as she had been a reliable tenant, and the rent had consistently been paid on time by myself. The landlord agreed to this change. I have an email confirming this change dated September 30, 2021. 5- Backdated Agreement: The landlord created a new tenancy agreement in xxxx name, backdating it to July 15, 2019. This date is incorrect, as my tenancy agreement was not even created until July 29, 2019. 6- Landlord's Request and Promise: Prior to xxx

vacating the property in June 2025, the landlord contacted me multiple times, requesting my assistance in persuading her to leave so he could regain possession of the property. He promised to return my deposit as soon as she vacated. I have a recording of a phone call where he confirmed this promise. 7- Deposit Dispute: Despite xxxx vacating the property in June 2025, the landlord has refused to return my deposit. 2 8- Unclear Tenancy Status: The landlord has not confirmed whether my original tenancy agreement has been formally cancelled. He has also refused to communicate with me, and I received a letter from his solicitor threatening police action if I contact him again regarding the deposit. The landlord has left me in the dark regarding the status of my tenancy agreement. There has been no written or verbal confirmation of its cancellation. ...10- Multiple Tenancy Agreements: I am also seeking clarification on whether the landlord can legally have two separate sole tenancy agreements for the same property at the same time.

7. He also provided an email from the landlord dated 30.9.2021 stating "Find the attached document with the name change, I shall be dropping hard copies this weekend as these need to be signed".
8. On 25.8.2025 the applicant was advised of the time limit for applications under rule 103. The Tribunal asked: You clearly indicate in your email of 22 August that you never resided at this property and that your primary residence was elsewhere. You state that in September 2021, the tenancy agreement was transferred to xxx as a sole tenant. It would appear your interest in this tenancy ended in September 2021. Any application under the tenancy deposit regulations requires to be lodged within three months of the termination of the tenancy. On what basis is this application valid?
9. He replied on 25.8.2025: Regarding my residency, I would like to clarify that the initial tenancy agreement in 2019 was made in my name to secure the property for my ex-partner, xxxx, and our three children. At the time, xxxx was unemployed, and I had the necessary financial resources and stronger references to meet the landlord's requirements, including paying the deposit and three months' rent upfront. While I was financially responsible for the property, I resided at a different address. In 2021, after two years of consistently paying the rent on time, I requested that the tenancy agreement be transferred to xxxx, as she was then in a position to take over the payments directly. The landlord agreed to this change and created a new tenancy agreement solely in xxxx name, which she signed. From that point forward, xxxx was responsible for all rent payments and communication with the landlord. However, the landlord informed me that he would keep my original tenancy agreement "open" as a form of security or guarantee in case xxxx defaulted on her obligations. He assured me that my tenancy agreement would only be cancelled once xxxx tenancy was terminated. xxxx terminated her tenancy agreement in June of this year. Prior to her doing so, I contacted the landlord to inquire about the status of my original tenancy agreement. He confirmed that it was still considered "open" and that it would be cancelled upon xxxx departure. Since June, I have not received any confirmation from the landlord regarding the cancellation of my original tenancy agreement. He has been unresponsive to my attempts to contact him. Therefore, I am uncertain whether my

tenancy agreement was officially cancelled in June or if it is still considered valid. This uncertainty is the reason for my application. I believed that as the original tenant, and with the understanding that my tenancy agreement remained "open" until recently, I was entitled to pursue the deposit claim.

DECISION

10. 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."

11. 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

12. In terms of regulation 3 (3) of The Tenancy Deposit Schemes (Scotland) Regulations 2011 “(3) A “relevant tenancy” for the purposes of paragraphs (1) and (2) means any tenancy or occupancy arrangement—
(a) in respect of which the landlord is a relevant person; and
(b) by virtue of which a house is occupied by an unconnected person, unless the use of the house is of a type described in section 83(6) (application for registration) of the 2004 Act.
13. From the correspondence it is clear that the tenancy was not entered into in order for the applicant as an “unconnected person” to “occupy the property”. Although the tenancy agreement in 2019 was drawn up as a Private Residential Tenancy, in terms of S1 of the Private Housing (Tenancies) (Scotland) Act 2016 the applicant did not at any point occupy the property as his only or principal home and this was also clearly not the purpose of the agreement. In terms of the requirement of a qualifying tenancy the Tribunal considers that the applicant never became a tenant of the property as he never occupied it.
14. An application under Regulation 9 of The Tenancy Deposit Schemes (Scotland) Regulations 2011 can only be made with regard to a qualifying tenancy as described in Regulation 3(3).
15. It would not be appropriate for the FTT to accept the application as there was no qualifying tenancy between the landlord and the applicant.

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.

Petra Hennig-McFatridge

Petra Hennig McFatridge
Legal Member
27.8.2025