



Decision and statement of Reasons of the First Tier Tribunal (Housing and Property Chamber)

Under Rule 8 of the First Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ‘the Rules’.

In respect of application by Kyjana Barnett in terms of rule 103 of the Rules.

Case reference FTS/HPC/PR/25/4296

At Glasgow on the 15 October 2025, Lesley Anne Ward, legal member of the First –Tier Tribunal ‘the Tribunal’ with delegated powers of the Chamber President, rejected the above application in terms of Rule 8(1) (c) of the Rules

1. This is an application by Kyjana Barnett for a penalty regarding a tenancy deposit in terms of rule 103 of the Rules.
2. The application was dated 6 October 2025. The inhouse convenor reviewed the application and the tribunal wrote to the applicant on 10 October 2025 seeking further information as follows:

A Legal Member of the Tribunal has reviewed your application. Before a decision can be made on whether your application can proceed, we require you to provide us with the following information:

1. Your application refers to there being a weblink to which evidence can be found. We cannot access documents via weblinks. You must produce evidence via email attachment such as word or pdf format.
2. Please provide a copy of the tenancy agreement.
3. Please confirm the date on which the tenancy ended and provide evidence of that.
4. Please provide evidence of payment of the tenancy deposit.
5. Please provide evidence from the three tenancy deposit schemes confirming that the deposit was not lodged with them within 30 working days of the start of the tenancy.

Please note 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 and that applications under The Tenancy Deposit Schemes (Scotland) Regulations 2011 cannot be made later than 3 months after the

tenancy has ended. 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.

3. The applicant responded on 13 October 2025 as follows:

My tenancy ended on July 10th, 2025 and my initial application with attached evidence was submitted to the tribunal on October 6th, 2025, within the 3 months of the tenancy ending. I understand from your guidance that all required documentation must be received for an application to be "made", so I have re-sent all evidence in the requested format as promptly as possible to ensure the valid statutory time limit. I would be grateful if you could please confirm that my application will be treated as valid within the three month period.

Below is some information regarding the re-sent evidence.

Due to email attachment size limitations, I had to downgrade some of the evidence quality particularly for the videos and photos. This should not be an issue as the primary purpose of the videos are sound. However, I do retain copies of all original videos and photos and I'm happy to provide a higher resolution version of a video/photo if requested.

Form G Notes, Section 5, mentions that applications and supporting documents should be sent together for the tribunal to consider hearing them together. I initially sent all 4 applications together with the supporting documents attached together via google docs link. To comply with the recent guidance and email size limitations, I have re-sent all evidence for each application separately. Could you confirm whether that is acceptable, or advise if any further action is needed if not?

Also, I would greatly appreciate any guidance on where to find more detailed information on the Tribunal and application process, so I can be as prepared as possible. I reviewed the Housing and Property Chamber website- Forms and Guidance - Other | Housing and Property Chamber and Forms and Guidance - Evictions and Civil Proceedings | Housing and Property Chamber for the applications and associated notes for Form G and F. However, I wasn't able to find the specific instructions on how to attach supporting documentation. Could you please point me to the relevant sections or 2 resources on applications and tribunal processes, so that I can ensure I'm fully complying with the procedures going forward?

Thank you so much for your time and assistance. Please let me know if anything further is required.

4. I have reviewed this application today and I have decided to reject it under rule 8 (c) on the basis that the tribunal has good reason to believe it would not be appropriate to accept it.

Reasons

5. Rule 103 of the Rules provides:

Where a tenant or former tenant makes an application under regulation 9 (First-tier Tribunal orders) of the 2011 Regulations, the application must—

(a)state—

- (i)the name and address of the tenant or former tenant;
- (ii)the name, address and profession of any representative of the tenant or former tenant; and
- (iii)the name, address and registration number (if any) of the landlord;
- (b)be accompanied by a copy of the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the tenant or former tenant can give;
- (c)evidence of the date of the end of the tenancy (if available); and
- (d)be signed and dated by the tenant or former tenant or a representative of the tenant or former tenant.

6. Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 provides:

Requirements for making an application Regulation 9 of The Tenancy Deposit Schemes (Scotland) Regulations 2011 (1) A tenant who has paid a tenancy deposit may apply to the First-tier Tribunal for an order under regulation 10 where the landlord did not comply with any duty in regulation 3 in respect of that tenancy deposit. (2) An application under paragraph (1) must ... be made no later than 3 months after the tenancy has ended."

- 7. The applicant in her email of 13 October 2025 has confirmed that the tenancy came to an end on 10 July 2025. This means that a completed application to the tribunal should have been made by 10 October 2025. Although the applicant submitted an application on 6 October 2025 this was not complete as there was no tenancy agreement and no details of the end date of the tenancy. Had the application of 6 October 2025 been complete it would have been accepted by the tribunal on that date and no request for further information would have been made. As things stand the application is time barred. In terms of Rule 5 (3) of the Rules "the application is to be held to be made on the date that the First-tier Tribunal receives the last of any outstanding documents necessary to meet the required manner for lodgement."
- 8. It would not be appropriate for the Tribunal to accept an application which is made out with the 3 months time limit stated in Regulation 9 of The Tenancy Deposit Schemes (Scotland) Regulations 2011. The applicant asks the tribunal to confirm that the application was 'made' on 6 October 2025. This is not within the power of the Tribunal as it was incomplete. The last of the outstanding documents was not received until 13 October 2025 which was outwith the 3 month period. The tribunal has no discretion to extend this period.
- 9. The Upper Tribunal has confirmed in previous decisions that the FTT is bound by the lodging requirements stated in primary legislation and regulations and does not have the power to accept applications which do not meet the statutory requirements for such applications. In UT 18 [2019] Sheriff Deutsch states: " [1] The appellant in his email of 5 August 2018 advances a number of cogent reasons why, if it had a discretion to do so, the tribunal might allow the application for an eviction order to proceed, notwithstanding the defect identified in the notice to leave upon which the appellant relies. Unfortunately, no such discretion exists. The tribunal can only operate within the terms of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") and subordinate legislation in the form of regulations made by the Scottish Ministers. In UT60 [2019] Sheriff Di Emidio states at paragraph 14: "It does not matter whether the application was treated as having been submitted on 18 February 2019 or 27 March 2019 or 4 April 2019 or 15 May 2019. The FtT's decision was correct because the information provided by the appellant meant that the application was too late having

regard to statutory time limit stated in rule 9. The fact that the HPC Administration required him to submit a different form may have served to muddy the waters but there is no arguable error of law arising out of maladministration which has contributed to any injustice to the appellant.”

10. The application therefore has to be rejected.

NOTE: What you should do now.

If you accept this decision, there is no need to reply.

If you disagree with this decision, you should note the following:

An applicant aggrieved by this 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 seek permission to appeal within 30 days of the date the decision was sent them. Information about the appeal procedure can be forwarded on request.

Lesley Anne Ward

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Legal Member