



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/TE/25/2019 and FTS/HPC/TE/25/2020

Re: Property at 70D Polepark Road, Dundee, DD1 5QP (“the Property”)

Parties:

Mr Robert Thorne, 21 Camault Muir, Kiltarlity, IV4 7JH (“the Applicant”)

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

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that there is good reason to believe that it would not be appropriate to accept the applications received by it on 13 May 2025. The Tribunal therefore rejects the applications under Rule 8(1)(c) of the Rules.

Background

- 1 The Applicant applied to the Tribunal under rules 106 and 107 of the Rules for an order drawing up terms of tenancy and an order for payment as a result of the landlord’s failure to provide information. The applications were conjoined as they related to the same parties and same tenancy. For the avoidance of doubt, this decision pertains to both applications.
- 2 In terms of rule 5(2) of the Rules, a Legal Member with delegated powers from the Chamber President reviewed the applications to assess whether they had been lodged in the required manner. Following said review the Tribunal wrote to the Applicant on 30 May 2025 requesting further information under rule 5(3) of the Rules in the following terms:-

“Before a decision can be made, we need you to provide us with the following:

1. *You are seeking an order for the landlord to acknowledge a future end date for a tenancy. This is not a matter the Tribunal has jurisdiction over.*

2. With regard to your request for an order to return a £400 deposit, please note that any payment order would have to be sought by way of an application under rule 111. This would require a separate application and you would have to provide all the information and documentation required for an application under that rule.

3. If you wish to make an application under rules 106 or 107, which are the other rules you stated on your application, you would have to provide the notice required in terms of S 14 (3) or 16 (3) of the Private Housing (Tenancies) (Scotland) Act 2016 and proof this had been given to the landlord and has expired together with all the other requirements of said rules. Please note an application under S 16 (1) of the 2016 Act can only be made during the course of the tenancy. The applications under rules 106 or 107 cannot be accepted at this stage as they do not meet the lodging requirements for these rules.

4. For the application under rule 106 please also state: which of the statutory terms you consider has been displaced; and why you consider this and Supported by the Scottish Courts and Tribunals Service www.scotcourttribunals.gov.uk provide evidence. Please also, as stated above, provide the relevant notice document.

5. For the application under rule 107 it is a requirement that the landlord has failed to provide the tenant with (either or both) a document setting out all the terms of the tenancy required under section 10 or information required under section 11 of the 2016 Act. Please specify which document/information was not provided and, as required for rule 107, provide the abovementioned notice.

You may wish to consider obtaining independent legal advice in the matter. The Tribunal as a judicial body cannot provide advice to parties.

Please reply to this office with the necessary information by 13 June 2025. If we do not hear from you within this time, the President may decide to reject the application.”

3 On 2 June 2025 the Applicant emailed the Tribunal to advise that he may have been mistaken regarding the rules relied upon. He explained that his landlord had refused to repay his tenancy deposit, stating that it was advanced rent. The Applicant queried whether he had been overcharged and should therefore apply under rule 111. The Tribunal responded to the Applicant by email on 4 June 2025 explaining that it could not provide him with legal advice. The Applicant was directed to various advice agencies and the forms and guidance on the Tribunal's website.

4 On 23 July 2025 the Tribunal wrote again to the Applicant in the following terms:-

“We refer to the Tribunal’s request for information dated 30 May 2025, attached, and our subsequent email correspondence in which we advised that

the Tribunal cannot provide legal advice to parties. We do not appear to have received anything further from you.

If you wish to proceed with applications TE/25/2019 and TE/25/2020, we require you to provide a response to our letter of 30 May 2025. In particular, we require the following information:

1 If you wish to proceed under rules 106 or 107, you have to provide the notice required in terms of section 14(3) or 16(3) of the Private Housing (Tenancies) (Scotland) Act 2016 and proof that this has been given to the landlord, and has expired together with all the other requirements of said rules.

2 For the application under rule 106 please also state: which of the statutory terms you consider has been displaced; and why you consider this and provide evidence. Please also, as stated above, provide the relevant notice document.

3 For the application under rule 107 it is a requirement that the landlord has failed to provide the tenant with (either or both) a document setting out all the terms of the tenancy required under section 10 or information required under section 11 of the 2016 Act. Please specify which document/information was not provided and, as required for rule 107, provide the abovementioned notice.

Please provide a response within 14 days. Alternatively, if you no longer wish to proceed with the applications under rules 106 and 107 please confirm that these can now be withdrawn.”

- 5 On 24 July 2025 the Tribunal received a response from the Applicant. The Applicant explained that he believed his landlord had provided unfair statutory terms and failed to provide complete documentation based on the landlord's request for £400 in advanced rent prior to the start of the tenancy. The tenancy agreement did not specify the period to which the advanced rent applied. The Applicant believed the payment of £400 was an illegal premium.
- 6 On 12 August 2025 the Tribunal wrote again to the Applicant in the undernoted terms:-

“It appears that you are seeking repayment of a sum of money which you believe was an illegal premium. If so, you have made the applications in terms of the wrong Rules. Applications in relation to illegal premiums should be made in terms of Section 88 of the Rent (Scotland) Act and Rule 87 of the Procedure Rules. There is information on the website about this process.

If you wish to proceed on this basis please note:

- 1. The current applications should be withdrawn.*
- 2. A new application in terms of Rule 87 should be submitted with all required information and documents.*
- 3. The Tribunal cannot provide you with advice and you should consider taking advice before taking any further action.*

4. It is not unlawful for Landlords to require payment of a deposit at the start of a tenancy.

Please reply to this office with the necessary information by 26 August 2025. If we do not hear from you within this time, the President may decide to reject the application.”

- 7 The Tribunal received no response from the Applicant. On 9 September 2025 the Tribunal wrote to him again requesting a response within fourteen days otherwise his applications may be rejected.
- 8 The Tribunal has received no further response from the Applicant as at the date of this decision.

Reasons for decision

- 9 The Legal Member considered the applications in terms of the Rules and determined that the applications 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 Tribunal took into account the wording of rules 5(2) and 5(3) of the Rules:-

“(2) The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged in the required manner by assessing whether all mandatory requirements for lodgement have been met.

(3) If it is determined that an application has not been lodged in the prescribed manner, the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, may request further documents and 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.”
- 11 In this case the Applicant has failed to provide the documents required to meet the manner for lodgement for applications under rules 106 and 107. It in fact appears from his correspondence that he may not have a legal basis to proceed with applications under those rules. The Applicant has been given the opportunity to withdraw the applications and proceed with a new application under a different rule. He has therefore been given the opportunity to address the outstanding matters but has failed to provide any response and has not confirmed that the applications can be withdrawn. The Applicant has been warned that a failure to provide a response may result in the applications being rejected. Accordingly the Legal Member has concluded that the Applicant’s lack of response constitutes good reason to reject the applications 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

24 October 2025

Legal Member/Chair

Date