



**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/26/0909

Parties

Mrs Obubeleye Elizabeth Fubara-Awanta (Applicant)

52 Beath View, Dunfermline, KY11 4UE (House)

1. On 25.2.2026 the First –tier Tribunal for Scotland, Housing and Property Chamber (the FTT) received the application from the under Rule 103 of the Rules of Procedure. It was accompanied by confirmation of the deposit payment, text messages between the parties regarding a refund, completion of mortgage letter dated 10.7.2025, letter to landlord by tenant, confirmation from the three deposit scheme providers that the deposit was not registered and a copy of a tenant information pack. The applicant advised that they bought the property from the previous landlord in 2025.
2. On 27.2.2026 the FTT wrote to the applicant in the following terms: *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. An application raised under Rule 103 of the tribunal rules can only seek an order for payment of up to three times the deposit, on the basis that the landlord has failed to comply with the Tenancy Deposit Schemes (Sc) Regulations by failing to lodge a deposit into an approved scheme. If you also wish to seek an order for return*

of the deposit paid, you will require to lodge a separate application under Rule 111 seeking same. Both applications can then be considered at the time. Please confirm if you wish to do so, and submit the relevant rule 111 application and supporting evidence. 2. Please confirm the date the tenancy ended. Please note that an application under rule 103 must be made within 3 months of that end date. 3. Please provide evidence from each of the three approved deposit schemes that they do not hold your deposit. 4. Please provide a copy of your tenancy agreement. 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. Please provide the information no later than 14 March 2026.

3. On 1.3.2026 the applicant provided a reply confirming: *The tenancy ended on 10 July 2025, which was the date of mortgage completion.*
4. All documents are referred to for their terms and held to be incorporated herein.

B DECISION

1. 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."

2. 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 Tribunal has good reason to believe that it would not be appropriate to accept the application.

C RELEVANT LEGISLATION

The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017

Rule 103. 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.

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."

D REASONS FOR DECISION

1. In terms of 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." Regulation 10 then states: "If satisfied that the landlord did not comply with any duty in regulation 3 the First-tier Tribunal (a) must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit..."
2. The Applicant confirms that the tenancy ended on 10.7.2025 when they bought the property.
3. The period of 3 months within which the application can be lodged started on the end date of the tenancy and thus on 10.7.2025 and expired on 10.10.2025. In terms of Rule 5 (3) of the Procedural 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."
4. The application was lodged on 25.2.2026. This date was already outwith the 3 months period stated in the Regulations. Thus a valid application under rule 103 could already no longer be made. For the avoidance of doubt, this time limit does not apply to the application made by the applicant under rule 111 for repayment of the deposit sum.

5. 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.
6. 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.*”
7. The application thus has to be rejected.

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 McFatrige

Petra Hennig McFatrige
Legal Member
4 March 2026