



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 Miss River Wykes-Davies in terms of rule 103 of the Rules.

Case reference FTS/HPC/PR/26/0622

At Glasgow on the 13 April 2026, 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) (a) and (c) of the Rules

1. This is an application by Miss River Wykes-Davies, for a penalty regarding a tenancy deposit in terms of rule 103 of the Rules.
2. The application was dated 9 February 2026 and was entered in the case management system of the Tribunal Chamber on 10 February 2026.
3. The in-house convenor reviewed the application on 11 February 2026, and the Tribunal wrote to the applicant on that date as follows:
 - It appears from the terms of your application, and the room rental agreement provided, that your landlord was living in the property with you. The duty to lodge tenancy deposits does not apply to landlords who reside in the property with their tenants, otherwise known as resident landlords. You cannot therefore apply under rule 103 if your landlord was a resident landlord. Can you please explain why you believe your application can proceed. Alternatively, please confirm in writing if you wish to withdraw your application.
 - Please provide evidence of the end date of the tenancy.
 - You have referred to “deposit scheme search/emails” and “any correspondence with landlord” in the Required Documents section of your application. Please note we do not appear to have received these documents from you. Please submit the documents in an acceptable format, e.g. PDF,

Microsoft Word or JPEG. Please read the above carefully and ensure you provide all of the information requested. Upon receipt of your response we may seek further information from you before a decision is made on whether the application can proceed to a Tribunal for full determination.

4. The applicant did not respond, and a reminder was sent on 21 February 2026.
5. The applicant responded on 21 February 2026 as follows:

I understand that the documents I previously referred to were not received in the correct format, and I apologise for this. I would be grateful if you could confirm receipt of the newly submitted documents, including proof of end of tenancy.

I would also like to clarify point 1 of your letter. My former landlady did not live at the property with me and was not a resident landlord. I occupied the property as a tenant only, and we did not share living accommodation during the tenancy.

I do not have access to documentation confirming my former landlady's residential address, as this information was never provided to me. I would be grateful for guidance on any alternative evidence the Tribunal would consider acceptable to demonstrate that she was not resident at the property.

6. The tribunal sent a further request for information on 24 February 2026 as follows:

Your further information has been assessed by a Legal Member of the Tribunal with the delegated authority of the Chamber President. The Legal Member has requested the following information or documentation:

- You must provide an address for the Respondent. You may wish to contact the Respondent to ask for her address, failing which you may wish to try a tracing agency or Sheriff Officer. This can often be carried out as a desktop exercise at a minimal cost. Please let us know if further time is required for enquiries, but please bear in mind that a full Rule 103 application can only be accepted within 3 months of the end date of the tenancy, so you must ensure we have this information before the application becomes time-barred, which would appear to be on 29.3.26.
- If, having carried out enquiries, you are unable to source an address, you may wish to make an application for Service by Advertisement, enclosing a copy of any negative tracing report, and evidence of any other efforts made to source the address. Please reply to this office with the necessary information by 10 March 2026. If we do not hear from you within this time, the President may decide to reject the application.

7. The applicant did not respond. The in-house convenor reviewed the application on 21 March 2026 and a further request was sent on that date as follows:

As previously advised, you only have until 29 March 2026 to make a valid application under rule 103 of the Rules of Procedure. This requires you to provide the landlord details, including the landlord address. Please

do so now or make an application for service by advertisement as previously explained. Otherwise the application has to be rejected. The Tribunal has no discretion in the matter.

Upon receipt of the information a Legal Member will consider your response and may seek further information from you before a decision is made on whether your application can proceed. In the absence of a response your application may be rejected without further notice. You may wish to consult a solicitor or advice agency if you require further guidance regarding your application. The Tribunal cannot provide you with legal advice but there are details of advice agencies under the Useful Links section of the Tribunal website. Please reply to this office with the necessary information by 29 March 2026. If we do not hear from you within this time, the President may decide to reject the application.

8. No reply has been received.

9. I have reviewed this application today and I have decided to reject it under rule 8 (1) (a) and (c).

Reasons

10. 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.

11. 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."

12. Rule 8(1)(a) of the Rules allows an application to be rejected by the Chamber President if ***“they consider that an application is vexatious or frivolous”***.

13. “Frivolous” in the context of legal proceedings is defined by Lord Justice Bingham in R-v- North West Suffolk (Mildenhall) Magistrates Court (1998) Env.L.R.9. At page 16 he states:- “What the expression means in this

context is, in my view, that the court considers the application to be futile , misconceived, hopeless or academic”.

14. I consider that this application is frivolous or vexatious and has no reasonable prospect of success. The information provided suggests that the application is time barred. Regulation 9 requires an application to be made within 3 months of the end date of the tenancy. The tenancy came to an end on 29 December 2025 and the application had to be made by 29 March 2026. An application is not made until all of the required documents have been provided. This application is incomplete as an address for the landlord has not been provided. The Tribunal has no discretion to extend this period.

15. Further, it would not be appropriate for the Tribunal to accept an application in terms of rule 8(1)(c) as the applicant has failed to respond to the tribunal’s reasonable request for further information and has failed to cooperate with the tribunal in the execution of its duties.

16. 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

Legal Member