



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 8(1)(a) of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”)

Chamber Ref: FTS/HPC/PR/26/1859

Re: Property at Flat 2/2, 22 Black Hall Street, Paisley, PA11TG (“the Property”)

Parties:

Mr Ruairidh Mackinnon, Flat 2, The Old Coach House, Lochinver, IV27 4LE (“the Applicant”)

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

Decision

The Legal Member of the First-tier Tribunal for Scotland (Housing and Property Chamber) with delegated powers from the Chamber President determined that the application is frivolous and must therefore be rejected under Rule 8(1)(a) of the Rules.

Background

- 1 This is an application under rule 103 of the Rules and regulation 9 of the Tenancy Deposit Scheme (Scotland) Regulations 2011 (“the 2011 Regulations”). The Applicant sought a determination that the landlord had failed to comply with the duties under regulation 3 of the 2011 Regulations, and an order under regulation 10 of the 2011 Regulations of up to three times the deposit. The application was received by the Tribunal on 27 April 2026 and included a copy of the tenancy agreement, bank statements, and emails.
- 2 In terms of Rule 5(2) of the Rules, a Legal Member of the Tribunal with delegated powers from the Chamber President reviewed the application to assess whether it had been lodged in the required manner. Following said review the Tribunal wrote to the Applicant by email on 2 May 2026 in the following terms:-

“Applications of this type must be made within 3 months of the end date of the tenancy and the tribunal has no discretion to extend this period. To enable your application to be considered further please respond to the following within 7 days:

1. *The landlord on the tenancy agreement is Lisa Sinclair. Future Alliance Letting Management Ltd are the letting agent and not the landlord. Please provide an amended application with the correct landlord and the residential address. You may be able to find the address for Lisa Sinclair from the landlord register or from the letting agent.*

2. *Please tell us when the tenancy came to an end and provide evidence of the end date of the tenancy.*

3. *You have provided a bank statement. It is unredacted. If your application is accepted in due course all of the documents you give us will require to be sent to your landlord. Please either provide a redacted statement or confirm you are happy for it to be sent in its current form.*

4. *You have given us a copy email from SafeDepositScotland. Please tell us what this relates to as it is not the usual letter stating that the deposit is unprotected.*

5. *Please provide evidence from the three deposit schemes that your deposit was not protected.*

*We look forward to hearing from you by **11 May 2026.***

- 3 On 9 May 2026 the Tribunal received a response from the Applicant. He advised that he had been unable to obtain his landlord's address. He referenced health issues and education that were making it difficult for him to address matters and were causing him stress. He confirmed that he had sent screenshots showing that his deposit had been protected in two separate amounts, the first on 5 August 2025 and the second on 6 March 2026, which was a clear breach of the 2011 Regulations. His tenancy had commenced on 5 July 2025. He confirmed that he had submitted the application prior to the three month deadline. The Applicant provided an amended Form G, chronology of events and an evidence list that included the tenancy agreement, screenshots of bank statements, emails from the letting agent, emails from SafeDeposits Scotland, screenshot confirming the end date of the tenancy as 1 February 2026, and a deposit protection certificate.

Reasons for decision

- 4 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". "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".
- 5 The Legal Member considers that this application is frivolous having regard to the relevant provisions of the Rules and the 2011 Regulations.

6 Regulation 9 of the 2011 Regulations provides that a tenant who has paid a tenancy deposit may apply to the Tribunal for an order under regulation 10 where the landlord has failed to comply with the duties under regulation 3 in respect of that tenancy deposit. Regulation 9(2) states that the application must be made no later than three months after the tenancy has ended.

7 In terms of Rule 5(3) of the Rules, *“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 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 Rule 103 sets out the required manner for lodgement for an application under regulation 9 of the 2011 Regulations:-

“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.”

9 In this case the tenancy between the parties ended on 1 February 2026. Accordingly, the deadline for the application to be made under Rule 103 was 1 May 2026.

10 Whilst this application was received by the Tribunal on 27 April 2026, it did not comply with the mandatory requirements for lodgement for an application under Rule 103. It was therefore not made on that date for the purpose of regulation 9 of the 2011 Regulations and Rule 5(3) of the Rules. The application did not include evidence of the end date of the tenancy, and it did not contain the landlord’s details as respondent. As such, the Tribunal had to seek further information from the Applicant by email dated 2 May 2026. The information was received by the Applicant on 9 May 2026. Accordingly, in terms of Rule 5(3), the application was not made in terms of Rule 5(3) until after the three month deadline had expired.

11 There is no provision in the 2011 Regulations that permits the Tribunal to extend the statutory deadline. Accordingly, whilst the Legal Member has some sympathy for the Applicant’s position, the application is futile as it has been made after the deadline and must be rejected on that basis.

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

Legal Member/Chair

18 May 2026

Date
