



**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/PR/26/0653**

**Re: Property at 30 Harlequin Court, Hamilton, ML3 8SW (“the Property”)**

**Parties:**

**Mrs Malgorzata Kobylec, 9 Tarbert Court, Hamilton, ML3 8UP (“the Applicant”)**

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

**Decision**

The Legal Member determined that there is good reason to believe that it would not be appropriate to accept the application received by it on 10 February 2026. The Tribunal therefore rejects the application under Rule 8(1)(c) of the Rules.

**Background**

- 1 This is an application for a determination that the landlord has failed to comply with the duties in relation to tenancy deposits under rule 103 of the Rules and regulation 9 of the Tenancy Deposit Scheme (Scotland) Regulations 2011 (“the 2011 Regulations”). The application was received by the Tribunal on 10 February 2026. The application was submitted by the Applicant’s representative, Marcin Kobylec.
- 2 In terms of rule 5(2) of the Rules, a Legal Member 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’s representative by email on 19 February 2026 in the following terms:-

*“Your application has been reviewed by a legal member of the First-tier Tribunal with delegated powers of the Chamber President who has raised the following matters:*

- *This application bears to be lodged under rule 103 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. That rule deals with claims under the Tenancy Deposit Schemes (Scotland) Regulations 2011 which allow the tribunal to make an award of up to three times the deposit if a landlord has failed to place a tenancy deposit with an approved scheme in accordance with the Regulations or has failed to provide the prescribed information.*
- *Applications under The Tenancy Deposit Schemes (Scotland) Regulations 2011 cannot be made later than 3 months after the tenancy has ended and 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. 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. The Tribunal has no discretion to extend this time limit.*
- *Please confirm that Marcin Kobylec who is shown as the applicant's representative on the application form is actually a joint applicant. Please confirm whether Mr Ethan Miller from Ritehome is acting as the representative in this matter*
- *Please provide evidence of the date of termination of the tenancy.*
- *Please provide any evidence that you have but the deposit was not lodged in any of the three approved deposit schemes. If you e-mail them they will provide you with confirmation that they do not hold the deposit.*

*Upon receipt of the above information, a final decision can then be taken on whether the application is valid and whether it should be accepted and referred to the tribunal for full determination.*

*The tribunal would suggest that you may find it useful to seek independent legal advice on this application, the matters contained in this letter and any further action which you wish to take.*

*Please reply to this request as quickly as possible bearing in mind the strict time limit mentioned above.*

*If you fail to respond to this letter then the tribunal may reject your application. You should be aware that the Tribunal has the power to reject applications on grounds set out in rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017*

*Please reply to this office with the necessary information by **5 March 2026**. If we do not hear from you within this time, the President may decide to reject the application.*

- 3 The Tribunal received no response from the Applicant's representative. On 18 March 2026 the Tribunal sent a further email to him advising that the application could not progress without the requested information. The Applicant's representative was asked to provide a response no later than 28 March 2026 failing which the application may be rejected. The Tribunal again received no response from the Applicant's representative.
- 4 On 14 April 2026 the Tribunal wrote to the Applicant's representative by post requesting the information no later than 25 May 2026, failing which the application may be rejected.
- 5 On 18 April 2026 the Tribunal received an email from the Applicant's representative enquiring whether the Tribunal had discretion to accept the application out with the three month statutory deadline or whether any alternative route or remedy may be available to the Applicant. The Tribunal responded to the Applicant's representative on 25 April 2026 stating that the Tribunal had no discretion to extend the deadline and could not provide the Applicant with legal advice. The Applicant's representative was directed to details of advice agencies on the Tribunal's website.
- 6 No further response has been received from the Applicant as at the date of this decision.

### **Reasons for decision**

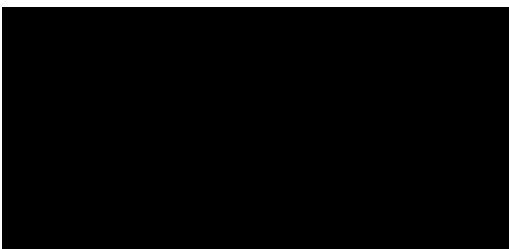
- 7 The Legal Member considered the application in terms of the Rules and determined that the application should be rejected in terms of Rule 8(1)(c) which states that an application must be rejected if the Tribunal has *"good reason to believe that it would not be appropriate to accept the application."*
- 8 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."*
- 9 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.”*

- 10 The Applicant has failed to provide the information requested by the Tribunal which is mandatory for an application under Rule 103, such as evidence of the end date of the tenancy. In terms of Rule 5(3) of the Rules, the Chamber President or another member of the Tribunal under the delegated powers of the Chamber President, may request further documents if it is determined that an application has not been lodged in the prescribed manner. The application in its current form does not meet the mandatory requirements for lodgement that apply to an application under Rule 103 of the Rules. The Applicant has been asked for further information on three occasions via her representative. She has been warned that a failure to provide the information may result in the application being rejected. The Applicant has therefore been given the opportunity to address the outstanding matters.
- 11 The Legal Member has also considered the terms of the email from the Applicant’s representative dated 18 April 2026 in which he asked whether there is any discretion on the part of the Tribunal that would allow the application to be accepted beyond the three month statutory deadline under Regulation 9 of the 2011 Regulations. The Legal Member considers that it can be reasonably assumed based on his comments that the application is time-barred.
- 12 Accordingly, the Legal Member has concluded that there is good reason to reject the application 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.**



**Legal Member/Chair**

**1 June 2026**

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**Date**

