



**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/CV/26/2999

Parties

MR NEGASI TESFAHUNEY ABRHA (Applicant)

216 CUMLODDEN DRIVE, GLASGOW, G20 0LA (House)

1. On 27 June 2026 the First –tier Tribunal for Scotland, Housing and Property Chamber (the FTT) received the application by the Applicant. The application was made under Rule 111 of the Rules of Procedure. In the application the Applicant asked for return of a holding fee of £50 and rent and deposit of £649 paid for a property he did then not move into. He submitted evidence of payment of the funds and added information about the message exchange between him and the Respondent, which he states shows that the Applicant ultimately did not move into the property. He also submitted a copy of a tenancy agreement drawn up by the Respondent which was not signed by the Applicant. His representations are that there was no Private Residential Tenancy and the funds should be returned.
2. 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

Application for civil proceedings in relation to a private residential tenancy

111. Where a person makes any other application to the First-tier Tribunal by virtue of section 71(1) (First-tier Tribunal's jurisdiction) of the 2016 Act, the application must—

(a)state—

- (i)the name and address of the person;
- (ii)the name and address of any other party; and
- (iii)the reason for making the application;

(b)be accompanied by—

- (i)evidence to support the application; and
- (ii)a copy of any relevant document; and

(c)be signed and dated by the person.

S 1 of the Private Housing (Tenancies) (Scotland) Act 2016

1Meaning of private residential tenancy

(1)A tenancy is a private residential tenancy where—

- (a)the tenancy is one under which a property is let to an individual (“the tenant”) as a separate dwelling,
- (b)the tenant occupies the property (or any part of it) as the tenant's only or principal home, and
- (c)the tenancy is not one which schedule 1 states cannot be a private residential tenancy.

(2)A tenancy which is a private residential tenancy does not cease to be one by reason only of the fact that subsection (1)(b) is no longer satisfied.

71First-tier Tribunal's jurisdiction

(1)In relation to civil proceedings arising from a private residential tenancy—

- (a)the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),
- (b)a sheriff does not have competence or jurisdiction.

(2) For the purposes of subsection (1), civil proceedings are any proceedings other than—

(a) the prosecution of a criminal offence,

(b) any proceedings related to such a prosecution.

D REASONS FOR DECISION

1. The Application is made under Rule 111 of the Procedural Rules, which refers to S 71 of the Private Housing (Tenancies) (Scotland) Act 2016. The issue for the Tribunal is whether the application relates to circumstances for which the Tribunal would have jurisdiction. The Applicant states that no tenancy agreement was executed, he did not move in and that no Private Residential Tenancy commenced. The Appellant's position put forward in the application is thus that there was no Private Residential Tenancy. As the start date was given as 11 June 2026, the only possible type of tenancy that could be relevant would be a Private Residential Tenancy under the Private Housing (Tenancies) (Scotland) Act 2016. As stated above, s 1 of the 2016 Act defines what a Private Residential Tenancy is. One requirement is section 1 (1) (b) of the Act, namely that "the tenant occupies the property (or any part of it) has the tenant's only or principal home". In this case the Applicant states he never did occupy the property and therefore there was no tenancy. The Tribunal's jurisdiction for applications under rule 111 of the Procedure Rules and S 71 of the 2016 Act only relates to civil proceedings arising from a Private Residential Tenancy. Ultimately the Applicant argues that no such tenancy was ever constituted. By his own representations the Tribunal does not have jurisdiction and it would not be appropriate to accept the application.
2. The application thus has to be rejected.
3. For the avoidance of doubt, this decision does not affect any rights and civil remedies the Applicant may have in terms of the contractual obligations of the parties, which would have to be litigated in a different forum.

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 McFatridge
Legal Member
1 July 2026