



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/26/2002

Re: Property at 147 Kingsmills, Elgin, IV30 4BS (“the Property”)

Parties:

Mr Joseph Harper, Hill View, Snowhill, Broadway, WR12 7JY (“the Applicant”)

Tribunal Members: Ruth O'Hare, Legal Member, with delegated powers of 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 5 May 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 5 May 2026.
- 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 by email on 15 May 2026 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 for an order under Regulation 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 must be made against the landlord. You have sought to include the Landlord’s agent, Belvoir Lettings Moray Limited, as

a joint respondent. Please explain the legal basis upon which you consider that a landlord's agent can be held liable in these proceedings?

2.A "care of" address for the Landlord cannot be accepted. You must provide the landlord's current residential address, for service of the papers. If you do not know the landlord's address you should firstly seek this from the agent, in terms of s327 of the Housing (Scotland) Act 1987. Failing which, you must show that you have taken reasonable steps to obtain the address, such as by instructing a Sheriff Officer's trace report.

3.You can only seek an order under Rule 103 for the landlord's failure to abide by their obligations under the 2011 Regulations. If you wish to seek a separate order for repayment of the deposit paid, you must raise a separate Rule 111 application seeking same. Please submit this within 14 days, and it can be conjoined with this application and both heard at the same time.

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.

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 May 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. On 29 June 2026 the Tribunal wrote again to the Applicant by email requesting the information within 7 days failing which the application would likely be rejected. The Tribunal reiterated the three month deadline for making an application under rule 103 which ran from the end date of the tenancy.
- 4 No further response has been received from the Applicant as at the date of this decision.

Reasons for decision

- 5 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."

- 6 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.”*
- 7 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.”*
- 8 The Applicant has failed to provide the information requested by the Tribunal which is mandatory for an application under Rule 103, such as an address for the respondent. 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 two occasions. He 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.
- 9 The Legal Member further notes that the tenancy appears to have ended on 18 March 2026. The deadline for making an application under regulation 9 of the 2011 Regulations would therefore be 18 June 2026 and the application is now time barred.
- 10 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

5 August 2026

Date