



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/26/2976 and FTS/HPC/CV/26/2978

Re: Property at 101 Broughty Ferry Road, Dundee, DD4 6JE (“the Property”)

Parties:

Ms Anita Guy, 1 Westfield Drive, Westhill, Inverness, IV2 5TR (“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 these applications received by the Tribunal on 29 June 2026.

The Legal Member therefore rejects the applications under Rule 8(1)(c) of the Rules.

Background

- 1 On 29 June 2026 the Applicant submitted two applications to the Tribunal by email; an application under rule 103 of the Rules for a determination that the landlord had failed to comply with the duties in relation to her tenancy deposit under regulation 3 of the Tenancy Deposit Scheme (Scotland) Regulations 2011 (“the 2011 Regulations”), and an application under rule 111 of the Rules for recovery of her tenancy deposit. For the avoidance of doubt, this decision addresses both applications.
- 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 applications to assess whether they had been lodged in the required manner in terms of the mandatory requirements of rules 103 and 111. Following said review, the Tribunal wrote to the Applicant by email on 1 July 2026 in the following terms:-

“For PR/26/2976:

- *Please provide the tenancy agreement or, if that is not possible, as much information about the tenancy terms as possible.*
- *Provide evidence of the end date of the tenancy.*

- *Please consider whether the application is made against the correct Respondent. The property owner in terms of official records appears to be Craigtay Hotel Limited.*
- *Without the above the application is incomplete and will have to be rejected. 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.*

For CV/26/2978:

- *Please consider whether the application is made against the correct Respondent. The property owner in terms of official records appears to be Craigtay Hotel Limited.*
- *Please make representations as to the legal basis on which you consider any payment is due. You may wish to take legal advice on the matter.”*

- 3 On 1 July 2026 the Tribunal received emails from the Applicant in response to the request for further information for both applications. In summary, the Applicant confirmed that she did not have a tenancy agreement. She submitted that the property owner as stated on Companies House was Access Apartments Ltd. The Applicant explained that she had exchanged WhatsApp messages with an individual regarding the tenancy and received monthly invoices with terms and conditions. Her tenancy had ended on 29 April 2026, as confirmed by the messages produced. The Applicant submitted that the terms and conditions were unfair and misleading under the Consumer Rights Act 2015 and gave examples including the absence of landlord's responsibility for repairs, cancellation penalties and automatic cleaning fees. She submitted that it was illegal in Scotland for a deposit to be non-refundable as stated in the terms and conditions. The Applicant provided copies of the invoices and terms and conditions, excerpt WhatsApp messages, screenshot from the Companies House website, and email correspondence.
- 4 A Legal Member of the Tribunal reviewed the Applicant's response. Following said review the Tribunal emailed the Applicant on 9 July 2026 stating:

“We note you have told us that you paid a deposit and that you consider you entered into a tenancy agreement which came to an end on 29 April 2026. We asked you to provide information regarding the terms of the tenancy. The information you provided with your email of 1 July 2026 suggests that you entered into a hotel booking. This means that the tenancy deposit regulations do not apply. Further, according to the land register the owner of the property is:

CRAIGTAY HOTEL LIMITED a Company incorporated under the Companies Acts, (Company Number SC559517), and having its Registered Office at 7 Balmossie Green, Broughty Ferry, Dundee

Please consider how you wish to proceed in the light of this. It is likely that the President will decide to reject your applications as being misconceived.

*Please respond **within 7 days.***

- 5 The Applicant did not respond to the Tribunal's request for further information. On 21 July 2026 the Tribunal wrote again to the Applicant in the following terms:-

"A legal member of the First-tier Tribunal with delegated powers of the Chamber President considers that in order for the Tribunal to be able to process your application further the undernoted information /documentation is required:

- For both cases the issue most important to the question whether or not these can be accepted is whether or not this was in essence a hotel booking or a tenancy agreement. Please provide evidence that this was a tenancy agreement. For any other type of occupation, the Tribunal does not have jurisdiction. As previously stated, you may wish to obtain urgent legal advice.*

- You have not replied to the request for further information dated 9.7.26. Please confirm if you are withdrawing the applications.*

- 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.*

*Please provide the information no later than **28 July 2026**. 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."

- 6 No response has been received from the Applicant as at the date of this decision.

Reasons for decision

- 7 The Legal Member has determined that these applications should be rejected in terms of Rule 8(1)(c) of the Rules, 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 An application under rule 111 can only be made in relation to civil claims arising from a private residential tenancy. The Applicant has failed to establish that her occupancy of the property falls under the definition of a private residential tenancy under section 1 of the Private Housing (Tenancies) (Scotland) Act 201 based on the documents she has produced.
- 9 An application under rule 103 can only be made where the landlord has received a deposit in relation to a relevant tenancy. The Applicant has failed to establish that her occupancy of the property falls within the definition of a relevant tenancy as defined by regulation 3(3) of the 2011 Regulations. The documents the Applicant has produced to date indicate that the arrangement between the Applicant and the alleged landlord was a commercial arrangement in terms of which the Applicant was provided with hotel accommodation. The Applicant has provided no further evidence or submissions to counter this, despite having been given the opportunity to do so.
- 10 Furthermore, an application under rule 103 must be made within three months of the end date of the tenancy. The Applicant states that her tenancy ended on 29 April 2026. The deadline for submitting an application under rule 103 would therefore be 29 July 2026. An application is not considered made until the Applicant has satisfied the requirements of rule 103. It would appear therefore that the application under rule 103 is now time-barred.
- 11 In terms of Rule 5(3) of the Rules, the Chamber President or a Legal Member with delegated powers from the Chamber President, can request further documents from a party if an application does not meet the mandatory requirements for lodgement. The Tribunal has requested further information from the Applicant on three occasions. The Applicant has been given the opportunity to remedy the potential defects identified in the Legal Members’ review of her applications. She has been directed to seek legal advice if she has further queries. She has latterly failed to respond to the Tribunal’s request for information.
- 12 The Legal Member has therefore determined that it would not be appropriate to accept the application for the above reasons.

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

30 July 2026

Legal Member/Chair

Date