



**DECISION AND STATEMENT OF REASONS OF JOAN DEVINE, 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 Rules")**

in connection with

23F Cairnfield Place, Bucksburn, Aberdeen AB21 9LT ("the Property")

Case Reference: FTS/HPC/PR/26/3108

Doris Adaku Agbugba, 19 School Walk, Aberdeen ("the Applicant")

1. The Applicant lodged form G under rule 103 (application for order for payment where landlord has failed to carry out duties in relation to tenancy deposits) dated and submitted on 3 July 2026. In the application the Applicant sought payment of compensation in terms of the Tenancy Deposit Schemes (Scotland) Regulations 2011 ("2011 Regulations") in the sum of £1800. The Applicant noted in the application that the tenancy deposit was not lodged with an approved scheme within 30 days of the deposit being received. The Applicant stated that the tenancy ended on 1 November 2024
2. On 9 July 2026 the Tribunal advised the Applicant that applications under rule 103 must be made no later than 3 months after the tenancy has ended as stated in regulation 9 of the 2011 Regulations. The Tribunal noted that reference had been made to a previous application and told the Applicant that there was no record of a previous application having been made. The Tribunal noted that the application appeared to be time barred and invited the Applicant to withdraw the application.
3. On 11 July 2026 the Applicant emailed the Tribunal stating that they did not wish to withdraw the application and that they believed their claim had been

pursued timeously. The Applicant stated that they had corresponded with the Tribunal in January and February 2025. The Applicant lodged a screenshot of an email to the Tribunal dated 18 February 2025 and a response dated 24 February 2025 which stated “The Tribunal does not hold an active application for yourself.” The Applicant also lodged screenshots of automated responses from the Tribunal dated 21 January 2025 and 26 February 2025.

4. On 22 July 2026 the Tribunal emailed the Applicant asking for a full copy of the previous application stated to have been lodged and noted that on the basis of the information provided it appeared that a rule 103 application had not been made timeously. The Applicant responded on 22 July 2026 and provided a copy of two pages of an application form consisting of parts 7, 8 and 9 which was dated 27 January 2025. The Applicant also lodged a written representation.

DECISION

5. The Legal Member considered the Application in terms of Rule 8 of the Chamber 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.

6. After consideration of the Application and documents lodged in support of same the Legal Member considers that the Application should be rejected on the basis that it is frivolous within the meaning of Rule 8(1)(a) of the Procedural Rules.

Reasons for Decision

7. 'Frivolous' in the context of legal proceedings is defined by Lord Justice Bingham in *R v North West Suffolk (Mildenhall) Magistrates Court*, (1998) Env LR9. He indicated at page 16 of the judgment; "What the expression means in this context is, in my view, that the court considers the application to be futile, misconceived, hopeless or academic". It is that definition which the Legal Member has considered as the test in this application, and on consideration of this test, the Legal Member considers that this application is frivolous, misconceived and has no prospect of success.
8. The Applicant sought an order under rule 103. In terms of regulation 9 of the 2011 Regulations such an application must be made within 3 months of the tenancy ending. The tenancy ended on 1 November 2024. The deadline for making the application was therefore 1 February 2025. The application was lodged on 3 July 2026. It was the Applicant's position that an application had been made timeously. The Tribunal was unable to identify an application having been made timeously on the Tribunal case management system. The evidence produced of an application having been made timeously consisted of automated responses, an email which stated that no active application had been identified on the Tribunal system and an incomplete copy of an application. In all the circumstances, the Legal Member determines that the Application is frivolous, misconceived and has no prospect of success. The Application is rejected on that basis.

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.

Joan Devine
Legal Member

4 August 2026