Housing and Property Chamber
First-tier Tribunal for Scotland

DECISION AND STATEMENT OF REASONS OF FIONA WATSON, 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

5 Cluny Gardens, Edinburgh, EH10 6BE ("the Property")

Case Reference: FTS/HPC/PR/26/3385

Juliette Dupre, 34 Rue Xavier Grall, 35700 Rennes, France ("the Applicant")

1. The Applicant seeks an Order in terms of Rule 103 of the Rules. The Applicant lodged the following accompanying documents with the application:
   (i) Tenancy agreement
   (ii) French document purporting to relate to a tenancy deposit
   (iii) Correspondence with landlord dated 9 May 2026

2. The applicant also submitted a seperate Rule 103 application which was allocated case reference FTS/HPC/PR/26/3388 and which application was subsequently withdrawn by the Applicant.

DECISION

3. 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.

4. After consideration of the application and the documents submitted by the Applicant in support of same, the Legal Member considers that the application should be rejected on the basis that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Rules.

Reasons for Decision

5. An email was sent to the Applicant on 24 July 2026 seeking further information as follows:

(i) *"In both application forms you list the address of the Respondent as the property address. If the Respondent was a resident landlord the Tribunal does not have jurisdiction to deal with these cases. Please clarify the position. If he was not a resident landlord you must provide his current residential address. If*

you are unable to do so you must submit an application for service by advertisement with a negative trace report from a tracing agent or Sheriff Officer.

(ii) Please provide a mandate from both Applicants authorising you to make the applications.

(iii) In both forms you state that the Applicant is seeking the return of a tenancy deposit. However, Rule 103 relates to applications where a landlord has failed to lodge a tenancy deposit in an approved scheme. If you are only seeking repayment you must amend the applications to Rule 111. If you are seeking both the return of the deposit and an award under the tenancy deposit regulations then you must submit separate applications under Rule 111 in addition to the current applications. You must also submit amended application forms for the current applications which state that the applications are based on a failure to comply with the tenancy deposit regulations.

(iv) According to the title deeds the name of the owner of the property is Don Jose Demarco. Please confirm if this is the correct name of the Respondent or if he should be added as joint Respondent. Please note that if he is an additional respondent his address is also required.

(v) Please provide the lease for application 3388.

(vi) It is noted that Ms Dupre did not occupy the property. Please clarify the basis upon which the application can be made. A tenancy is only a private residential tenancy if it is occupied by the tenant as their only or principal home

6. The Applicant's representative replied to said email in relation to points (i) and (ii) only. It was confirmed that the Respondent was a resident landlord in the Property. A further email was sent to the Applicant on 27 July 2026 which stated:

(i) "It is noted that the landlord was a resident landlord. If that is the case then the provisions of the Tenancy Deposit Schemes (Scotland) Regulations 2011 ("the 2011 Regulations") do not apply to these tenancies. There is no requirement on such a landlord to lodge a deposit with a tenancy deposit scheme. You have lodged your applications under rule 103 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the tribunal rules") which only relates to applications seeking an order in terms of breaches of the 2011 regulations where a deposit has not been lodged with an approved scheme.

(ii) We indicated to you in our initial response that if you are simply seeking an order for return of the deposit itself that requires to be lodged in terms of rule 111of the tribunal rules.

(iii) With regard to the mandate, the tribunal requires a written mandate from each applicant authorising you to act on their behalf

(iv) We note that you have not responded to the other elements of our initial

request for further information and we now invite you to do so"

7. The Applicant failed to reply to said email. A further email was sent to the Applicant on 18 September 2026 advising that if they fail to provide the outstanding information within the next seven days the tribunal will have no option but to reject the application. The Applicant failed to reply to said email.

8. The Applicant has failed to cooperate with the tribunal in their reasonable requests for information. Further, the application has been raised in relation to an occupancy arrangement where the Respondent was a resident landlord, and the Tenancy Deposit Schemes (Scotland) Regulations 2011 do not apply to such occupancy arrangements. The application is therefore incompetent.

9. The Legal Member therefore determines that there is good reason to believe that it would not be appropriate to accept the application. 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.

Fiona Watson
Legal Member
2 October 2026