Housing and Property Chamber
First-tier Tribunal for Scotland

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

21 Duns Crescent, Dundee DD4 ORY ("the Property")

Case Reference: FTS/HPC/PR/26/4055

Abdullah Bohaik Ahmed, 14 Gilmour Place, Dundee DD2 2HR ("the Applicant")

Rizwan Hussein ("Applicant's Representative")

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) which was submitted on 31 August 2026. In the application the Applicant named a party as Respondent who was not the named landlord in the tenancy agreement and who did not hold title to the Property. The final page of the application was missing. In the application the Applicant stated that they wished the deposit returned and noted that the deposit was not registered with a tenancy deposit scheme.

2. On 3 September 2026 the Tribunal sought further information from the Applicant. The Tribunal noted that the application had been made under rule 103 which is for application regarding payment of compensation in terms of the Tenancy Deposit Schemes (Scotland) Regulations 2011 ("2011 Regulations"). The Tribunal noted that the application stated that the return of the deposit was sought and requested clarification as to whether of the nature and the amount of the order sought. The Tribunal noted that the Respondent named was not the landlord in terms of the tenancy agreement nor were they the owner of the

Property. The Tribunal requested evidence of the date on which the tenancy ended. 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.

3. On 16 September 2026 the Applicant emailed the Tribunal appointing the Applicant's Representative. On 21 September 2026 the Applicant's Representative emailed the Tribunal providing further information including that the tenancy ended on 15 June 2026 and that the deposit and rent were paid to the person named as the landlord in the tenancy agreement and not to the person named as the Respondent.

DECISION

4. 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.

5. **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

6. '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.

7. 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 15 June 2026. The deadline for making the application was therefore 15 September 2026. Rule 103 requires the Applicant to state the name and address of the landlord and provide evidence of the date of the end of the tenancy. This information was not provided until 21 September 2026 which was after the expiry of the 3 month deadline. 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

Joan Devine
Legal Member

7 October 2026