Housing and Property Chamber
First-tier Tribunal for Scotland

Decision and 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/26/4828

Re: Property at 128 Davids Loan, Falkirk, FK2 7RQ ("the Property")

Parties:

Mrs Louise Mielnik, Mr Lee Mielnik, 21 Castle Avenue, Carronshore, Falkirk, FK2 8HX ("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 this application received by the Tribunal on 16 October 2026.

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

Background

1 The Applicant submitted an application to the Tribunal on 16 October 2026 under rule 103 of the Rules seeking a determination that their landlord had failed to comply with the duties in relation to tenancy deposits under the Tenancy Deposit Scheme (Scotland) Regulations 2011 ("the 2011 Regulations"). The application was conjoined with an application under rule 111 of the Rules as both applications related to the same parties and same tenancy.

2 In terms of Rule 5(2) of the Rules the application was considered by a Legal Member of the Tribunal with delegated powers from the Chamber President to assess whether it met the mandatory requirements for an application under rule 103. Following said review the Tribunal wrote to the Applicant in the following terms:-

"One application bears to be lodged under rule 103 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. That application has been given tribunal reference number FTS/HPC/PR/26/4828.

That rule deals with claims under the Tenancy Deposit Schemes (Scotland) Regulations 2011 which allow the tribunal to make an award of up to three times the deposit if a landlord has failed to place a tenancy deposit with an approved scheme in accordance with the Regulations or has failed to provide the prescribed information.

Applications under The Tenancy Deposit Schemes (Scotland) Regulations 2011 cannot be made later than 3 months after the tenancy has ended and 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. 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. The Tribunal has no discretion to extend this time limit. Please confirm the date that the tenancy terminated.

In the application form you indicate that you wish the tribunal to calculate the rent due between 3 July and 14 July 2026, deduct that from the deposit and order that the remainder is paid to you. That does not appear to be an appropriate order in terms of this rule. Please amend this application to indicate the amount you are seeking in respect of the alleged breach of the tenancy deposit regulations bearing in mind the maximum allowed mentioned above.

In respect of both applications, it is noted that you have indicated that the respondent should include the letting agent. These applications should be raised solely against the landlord. The letting agent is not an appropriate respondent in either of these applications. Please confirm that you will amend the applications to remove the letting agent as a second respondent or alternatively please provide appropriate legal submissions setting out the reasons why the letting agent should be a respondent in these applications."

3 The Applicant did not respond to the Tribunal's request for information. On 6 November 2026 the Tribunal wrote again to the Applicant requesting the information within seven days otherwise the Tribunal would have no option to reject the application.

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

Reasons for decision

5 The Legal Member has determined that the application 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"*.

6 The basis of the decision is the Applicant's failure to provide the information required to meet the mandatory requirements for an application under rule 103, such as evidence of the end date of the tenancy. In terms of Rule 5(3), the Chamber President or a Legal Member with delegated powers from the Chamber President can request further documents from an applicant if it is determined that the application has not been lodged in the prescribed manner. The Tribunal has requested further information from the Applicant on two occasions. The Applicant has therefore been given the opportunity to address the outstanding matters.

7 The Legal Member has therefore determined that, based on the Applicant's failure to respond to the Tribunal's information requests, there is good reason to believe that it would not be appropriate to accept the application. The application must therefore be rejected under rule 8(1)(c) of the Rules.

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

17 November 2026

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Legal Member/Chair **Date**