



**DECISION AND STATEMENT OF REASONS OF MELANIE BARBOUR, 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 Procedural Rules")**

**in connection with**

**Case reference FTS/HPC/CV/21/2657**

**Parties**

**Miss Lyndsey Cameron Clarke (Applicant)**

**Mr Roy McKeag (Respondent)**

**1L, 13 Barend Street, Millport, Isle of Cumbrae, KA28 0BL (House)**

1. On 26 October 2021, an application was received from the applicant. The application was made under Rule 111 of the Procedural Rules, being an application for payment..
2. By letters from the Tribunal dated 17 November and 29 December both 2021 and 1 February 2022 the Tribunal requested further information including :-
  - As you are acting on behalf of the Applicant can you provide a written mandate from her authorising you to act? If that is not possible do you have powers of attorney for the Applicant or guardianship and if so can you let us have sight of the documentation?
  - You are requesting the return of the deposit but have mentioned that it was held by Safe Deposit Scotland if it is still held by them then you can apply to them to have the deposit returned and they have their own adjudication service if there is a dispute over whether the deposit is returned. if the deposit has already been

awarded to the landlord please advise why this application would be appropriate if the matter has already been adjudicated?

3. No response has been forthcoming from the applicant's agent.

## **DECISION**

4. I considered the application in terms of Rule 8 of the 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, the attachments and correspondence from the applicant, I consider that the application should be rejected on the basis that I have good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

## **REASONS FOR DECISION**

6. The Tribunal had requested further information to support this application from the applicant. The applicant has not provided the information requested.
7. The applicant's failure to provide the requested information to support the application gives me good reason to believe that it would not be appropriate to accept the application in circumstances where the applicant is apparently unable to do so in order to progress this application under rule 111.
8. Accordingly, for this reason, the application must be rejected upon the basis that I have good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

### **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.

Melanie Barbour  
Legal Member  
07 March 2022