



**DECISION AND STATEMENT OF REASONS OF MARTIN J.MCALLISTER  
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

11 West Bowling Green Street, Edinburgh, EH65 PQ ("the Property")

**Case Reference:** FTS/HPC/CV/22/1835

Jordan Bibby ("**the Applicant**")

Damien McLaughlin ("**the Respondent**")

1. An application, dated 13<sup>h</sup> June 2022 was received from the Applicant by the First –tier Tribunal for Scotland, Housing and Property Chamber (the FTT). The application was made under Rule 111 of the Rules of Procedure.
2. The Application states that the Respondent had failed to return a deposit which had been paid to him by the Applicant.
3. In support of his application, the Applicant submitted a document entitled ““Lodger Agreement” dated 2<sup>nd</sup> September 2020.
4. On 22<sup>nd</sup> June the FTT wrote to the Applicant seeking information on why he considered that the FTT had jurisdiction to deal with the matter. No reply was received form the Applicant and a further letter was sent to him on 9<sup>th</sup> August

2022. No response has been received.

## **DECISION**

5. I considered the application in terms of Rules 5 and 8 of the Procedural Rules.

Rule 5 provides

*(1) An application is held to have been made on the date that it is lodged if, on that date, it is lodged in the manner as set out in rules 43, 47 to 50, 55, 59, 61, 65 to 70, 72, 75 to 91, 93 to 95, 98 to 101, 103 or 105 to 111, as appropriate.*

*(2) The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged in the required manner by assessing whether all mandatory requirements for lodgement have been met.*

*(3) If it is determined that an application has not been lodged in the prescribed manner, the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, may request further documents and the application is to be held to be made on the date that the First-tier Tribunal receives the last of any outstanding documents necessary to meet the required manner for lodgement.*

Rule 8 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 the documents submitted with it, I consider that the application should be rejected in terms of Rule 8 (c) of the Rules of Procedure on the basis as the Tribunal has good reason to believe that it would not be appropriate to accept the application.**

## **REASONS FOR DECISION**

7. The Applicant was asked for further information on two occasions and no response was received.
8. The information requested was essential for the Tribunal to make a decision as to whether or not to admit the application for determination. The FTT appears to have no jurisdiction to deal with the matter since no private residential tenancy agreement was submitted and the "lodger agreement" does not constitute such an agreement.
9. Applications under Rule 111 are in respect of applications for civil proceedings in relation to private residential tenancies.
10. The Applicant had failed to provide information having been required to do so in terms of Rule 5 (3).

## **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.**

# **M J McAllister**

**Martin J. McAllister,  
Legal Member  
First-tier Tribunal  
16<sup>th</sup> September 2022**