



**DECISION AND STATEMENT OF REASONS OF PETRA HENNIG MCFATRIDGE 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/22/1636

45 Oldmill Road, Aberdeen, AB11 6EG (the property)

Parties

David Grierson, Kenny Leung, Mrs Linda Leung (Applicant)

Brighter Morn Properties Ltd (Respondent)

1. The application for a payment order for £750 under rule 111 of the Procedural Rules was received by the First –tier Tribunal for Scotland, Housing and Property Chamber (the FTT) on 27 May 2022.
2. There were no documents lodged with the application. The cover email contained a reference to two other cases before the FTT.
3. On 31 May 2022 the FTT wrote to the applicant requesting the following information by 7 June 2022: “The following further information is required from you before your application

can proceed to the Chamber President for consideration: • A COPY OF THE TENANCY AGREEMENT • EVIDENCE TO SUPPORT THE APPLICATION • A COPY OF ANY RELEVANT DOCUMENT”. The FTT cover email contained the following information : “Please note that information from any existing cases is not copied over and the Applicant should submit any information they wish to be considered by the tribunal for each application lodged. “

4. No response was received.
5. On 20 June 2022 the FTT again wrote to the applicant in the following terms: “Before a decision can be made, we need you to provide us with the following: 1. Please provide a paper apart setting out the names and addresses of each additional applicant 2. Please provide a copy of the tenancy agreement 3. Please provide correspondence from the tenancy deposit scheme in relation to the decision to pay the deposit to the landlord 4. Please provide correspondence that you submitted to the tenancy deposit scheme in relation to your argument that the deposit should be returned to you 5. Please explain why you consider that the tribunal has jurisdiction to deal with your application for repayment of the tenancy deposit given that you must have agreed to the tenancy deposit scheme to determine the repayment of the deposit and given that it has now been determined Please reply to this office with the necessary information by 8 July 2022. If we do not hear from you within this time, the President may decide to reject the application. “
6. As of 8 August 2022 no reply has been received.

DECISION

1. 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."

2. After consideration of the application, the attachments and correspondence from the Applicant, 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.

Relevant Legislation

Application for civil proceedings in relation to a private residential tenancy

111. Where a person makes any other application to the First-tier Tribunal by virtue of section 71(1) (First-tier Tribunal's jurisdiction) of the 2016 Act, the application must—

(a) state—

- (i) the name and address of the person;
- (ii) the name and address of any other party; and
- (iii) the reason for making the application;

(b) be accompanied by—

- (i) evidence to support the application; and
- (ii) a copy of any relevant document; and

(c) be signed and dated by the person.

REASONS FOR DECISION

1. In terms of rule 111 the application must be accompanied by evidence to support the application and documentation referred to in the application. This was requested twice by the FTT and the Applicant was advised that this information was required for a valid application. The Applicant was also advised that without a reply the application was likely to be rejected. The Applicant did not reply to the two requests for further information and

documentation and the application remains incomplete. The tenancy agreement and the correspondence stated as evidencing the claim were not provided.

2. The FTT had given the applicant the opportunity to lodge the missing documents on two occasions.
3. Given that the application does not fulfil the lodging criteria for an application of that nature in terms of Rule 111 of the Procedure Rules, it would not be appropriate for the Tribunal to accept the application.
4. The application it is therefore rejected.

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.

Petra Hennig McFatrige
Legal Member
8 August 2022