

Housing and Property Chamber
First-tier Tribunal for Scotland



**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

228B Upper Craigs, Stirling, Stirlingshire FK8 2DG

Case Reference: FTS/HPC/PR/19/2104

Ciara Goddard and Erin Telford ("the applicants")

Jamie Masterton ("the respondent")

On 5 July 2019 an application was received from the Applicants. The application states it was made under Rule 103 of the Procedural Rules being an application under Regulation 9 of The Tenancy Deposit Schemes (Scotland) Regulations 2011. The following documents were enclosed with the application:-

Copy tenancy agreement, text message communications regarding end date of tenancy.

The application only gives the name and email address of the Respondent. The application did not state an address of the landlord and the part of the application pertaining to this information was left blank.

The Tribunal wrote to the Applicants on 8 July 2019 setting out that if the Respondent's

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address is unknown this must be stated on the application and advising of the option of making an application under Rule 6A of the Rules of Procedure. A date of 15 July 2019 was stated as the date by which a response should be received. The Applicants were advised that the application may be rejected if the requested information is not provided by that date.

No reply was received by the Tribunal.

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."

Rule 103 of the Rules of Procedure states:

103. *Where a tenant or former tenant makes an application under regulation 9 ([F65First-tier Tribunal orders]) of the 2011 Regulations, the application must—*

(a)state—

(i)the name and address of the tenant or former tenant;

(ii)the name, address and profession of any representative of the tenant or former tenant; and

(iii)the name, address and registration number (if any) of the landlord;

(b)be accompanied by a copy of the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the tenant or former tenant can give;

(c)evidence of the date of the end of the tenancy (if available); and

(d)be signed and dated by the tenant or former tenant or a representative of the tenant or former tenant.

- 2. After consideration of the application, the attachments and correspondence I consider that the application should be rejected on the basis that the application is frivolous or vexatious and has no prospect of success within the meaning of Rule 8(1)(a) of the Procedural Rules and that it would not be appropriate to accept the application in terms of Rule 8(1)(c) of the Procedural Rules.**

REASONS FOR DECISION

- 3. Frivolous within the meaning of Rule 8(1)(a) of the Procedural Rules. 'Frivolous' in the context of legal proceedings is defined by Lord Justice Bingham in *R v North West Suffolk (Mildenhall) Magistrates Court*, (1998) Env. L.R. 9. At page 16, he states:-**

"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 I have to consider in this application in order to determine whether or not this application is frivolous, misconceived, and has no prospect of success.

4. The Applicant states the application is made under Rule 103. Rule 103 of the Rules of Procedure requires the application to state the name and address and registration number (if any) of the landlord.
5. The application did not state the address of the landlord. This was left blank on the form.
6. The Tribunal specifically asked the Applicants for further information to be provided by 15 July 2019. The Applicants did not do so.
7. The application as it stands has no prospect of success as the Applicant has not provided the necessary information regarding the Respondent to the application. The Tribunal is not able to process the application in the form it has been made.
8. In terms of Rule 8 (1) (c) it would not be appropriate to receive the application as it does not meet the lodging requirements for an application under Rule 103 of the Rules of Procedure.

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 McFatridge

Petra Hennig McFatridge
Legal Member
6 August 2019