



**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

Room 5 43 Colinton Road, Edinburgh
Case Reference: FTS/HPC/PR/20/2236

Robert Lombard ("the applicant")

Christine Mulgrew ("the respondents")

1. On 25 October 2020 the Applicant lodged an application under Rule 103 of the Procedural Rules, being an application for payment where landlord has failed to carry out duties in relation to tenancy deposits. Attached to the application was a tenancy agreement. No other documents were lodged. Parts 7 b and c had not been completed. The documents are referred to for their terms and held to be incorporated herein.
2. On 5 November 2020 the Tribunal sent a letter requesting further information, in particular completion of the missing parts of the application and confirmation when the tenancy ended or that the tenancy was still in place.
3. On 5 November 2020 the Applicant replied and stated that the tenancy had ended on 14 June 2020.

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 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

In terms of regulation 9 (2) of The Tenancy Deposit Schemes (Scotland) Regulations 2011 “An application under paragraph (1) must be made no later than 3 months after the tenancy has ended. “

The tenancy ended on 14 June 2020. The application was not made within 3 months after the end of the tenancy as it was made on 25 October 2020.

It would not be appropriate to accept the application as it is clearly out of time.

The application is 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 McFatridge
Legal Member
19 November 2019