

**DECISION AND STATEMENT OF REASONS OF MORAG LECK, 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

12 Brunswick Place, Aberdeen AB11 7TF

Case Reference: FTS/HPC/PR/19/2502

MISS NATALIE ADAMS ("the applicant")

NORTHWOOD Lettings ("the respondent")

1. On 12th August 2019, an application was received from the applicant. The application was made under Rule 103 of the Procedural Rules being an application for an order for payment where a landlord has not paid the deposit into an approved scheme. The following documents were enclosed with the application:-

- i) Receipt for tenancy deposit from letting agent and various email communications regarding deposit.

By letter dated 22nd August 2019 the Tribunal requested further information from the applicant including a copy of the tenancy agreement. A response was required by 5th September 2019.

The applicant provided a copy of the tenancy agreement and provided some further information as requested including separate communication from the joint tenant. In response to the further information received, the Tribunal wrote to the applicant on

6th September 2019 and again advised that the application was made in terms of Rule 103 for a claim under section 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011. As this section provided that any order must be made against the landlord then the application required to be made against the landlord. Accordingly the tenant was also advised that if she wished to proceed with the application then the application should be amended to the landlord.

No response was received to this letter. A further letter requesting the same information was sent by the Tribunal to the applicant on 11th October 2019 and again no response was received.

DECISION

2. 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.

3. After consideration of the application, and accompanying documents, 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

4. An application made under Rule 103 is made in connection with duties in relation to tenancy deposits in terms of section 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (" the 2011 Regulations ")
5. The applicant has named the landlord's agent as the respondent in terms of the application submitted by her. Notwithstanding several letters from the Tribunal to the applicant explaining the position to her, the applicant has failed to amend the application to state the landlord as respondent. The application is based on The Tenancy Deposit Schemes (Scotland) Regulations 2011. Regulation 10 sets out that any order for payment can only be made against a landlord. Accordingly the application is not a valid application having regard to the terms of both the 2011 Regulations and Rule 103.
6. In light of the above this application must 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.

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.

Morag Leck

Morag Leck
Legal Member
6th November 2019