

**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

Flat 0/1, 1222 Argyle Street, Glasgow, G3 8TJ

Case Reference: FTS/HPC/PR/19/2660

MISS BETHANY HOLMES ("the applicant")

MR WALIUR RAHMAN ("the respondent")

1. On 27th August 2019, an application was received from the applicant. The application was made under Rule 78 of the Procedural Rules being an application for compensation for of the misrepresentation or concealment by The following document was enclosed with the application:-
 - i) copy of Tenancy agreement

By letter dated 10th September 2019 the Tribunal requested confirmation from the applicant as to whether she wished her application to be amended to proceed under Rule 103 (Application for order for payment where landlord has failed to carry out duties in relation to tenancy deposits) and further information in that regard. A response was required by 1st October 2019.

No response was received to this letter. A further letter requesting the same information was sent by the Tribunal to the applicant on 16th October 2019 requesting a response by 30th 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 document, 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 was made under Rule 78. The terms of the application related to two issues:- i) A failure to comply with House in Multiple Occupation (HMO) requirements which is out with the remit of the Tribunal and ii) failure to comply with the Tenancy Deposit Schemes (Scotland) Regulations 2012 (" the 2012 Regulations") which is within the remit of the Tribunal.
5. The applicant was afforded an opportunity to amend her application to proceed under Rule 103 being the relevant rule in connection with applications made under the said 2012 Regulations Notwithstanding correspondence from the Tribunal to the applicant explaining the position to her, the applicant has failed to amend the application. Accordingly the application is not a valid application having regard to the requirements of Rules 78 and 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