



**Decision with Statement of Reasons of H Forbes, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules")**

**Chamber Ref: FTS/HPC/PR/22/1824**

**Re: Flat 1F2, 4 Warrender Park Crescent, Edinburgh, EH9 1DX ("the Property")**

**Parties:**

**Jonathan Buffetrille ("the Applicant")**

**Yasmin Akhtar ("the Respondent")**

**Tribunal Member:**

**Ms H Forbes (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be dismissed on the basis that it is frivolous 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).**

**Background**

1. The application was received by the Tribunal under Rule 103 on 13<sup>th</sup> June 2022.
2. The Applicant provided copy private residential tenancy agreement between the parties, email communication and notification that the tenancy ended on 10<sup>th</sup> March 2022.
3. The application was considered by the Tribunal and further information was requested by letter dated 16<sup>th</sup> June 2022, as follows:

You have indicated and submitted evidence that your tenancy ended on 10 March 2022. Your application was received by the Tribunal on 13 June 2022 and was date stamped on receipt. An application under the Tenancy Deposit Regulations must be lodged no later than 3 months after the tenancy has ended. The tribunal has no discretion to extend

this time limit. It therefore appears that your application is time barred. If you disagree with this assessment please provide submissions regarding the competency of the application.

The Applicant was given until 30<sup>th</sup> June 2022 to respond, failing which the application may be rejected. No response was received.

4. The application was considered further on 11<sup>th</sup> July 2022.

### Reasons for Decision

5. The Tribunal considered the application in terms of Rule 8 of the Chamber 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;*
- (c) they have good reason to believe that it would not be appropriate to accept the application;*

*(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."*

6. '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"*.
7. The application is time-barred in terms of Regulation 9(2) of The Tenancy Deposit Schemes (Scotland) Regulations 2011.
8. Applying the test identified by Lord Justice Bingham in the case of ***R v North West Suffolk (Mildenhall) Magistrates Court*** (cited above) the application is frivolous, misconceived and has no prospect of success. It would not be appropriate to accept the application. The application is accordingly rejected.

### Right of Appeal

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal 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.**



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**Legal Member/Chair**

**11<sup>th</sup> July 2022**  
**Date**