



## DECISION AND STATEMENT OF REASONS OF THE FIRST-TIER TRIBUNAL FOR SCOTLAND

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

In respect of

247 Oldwood Place, Livingston, EH54 6XB

**Case Reference: FTS/HPC/PR/19/0398**

At Glasgow on 17 April 2019, Andrew McLaughlin, Legal Member of the First-Tier Tribunal with delegated powers of the Chamber President, rejected the above application in terms of rule 8 of the Rules for the following reasons:

1. The Applicant raises an Application in respect of Rule 103 for an Order for Payment where the landlord has not paid a deposit into an approved scheme relevant to Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011.
2. The Application narrates the Respondent as being Cox & Co, 28 Thistle Street, Edinburgh, EH2 1EN – it is apparent however from the Application that Cox & Co are not the landlords of the property in question but rather they are the letting agents. The tenancy agreement lodged with the Application indicates that the landlord is "*Cox and Co on behalf of Mr Brian Porteous*". The wording "*on behalf of*" makes it clear that Cox and Co are acting as agents for the landlord who is Mr Brian Porteous.
3. The Tribunal have written to the Applicant requesting that the Application be amended to reflect the fact that the Respondent should be Mr Brian Porteous who is actually the landlord. The Applicant has however corresponded with the Tribunal stating that "*I will absolutely not put in this complaint against the landlord.*"
4. The Applicant has been told under cover of a letter by the Tribunal dated 25 February 2019 that if he wishes to proceed with the Application he would require to amend the name of the Respondent. In spite of this the Applicant refuses to do so.
5. I consider that in light of this and the Applicant's refusal to amend the correct Respondent on the Application, despite the requests of the Tribunal, that it is not appropriate to accept the Application in terms of Tribunal Rule 8 (C) which allows for an Application to be rejected by a Legal Member of the Tribunal on behalf of the Chamber President if "*they have good reason to believe that it would not be appropriate to accept the application.*" The Application is therefore rejected.

**NOTE: What you should do now.**

If you accept this decision, there is no need to reply.

If you disagree with this decision you should note the following:

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 seek permission to appeal within 30 days of the date the decision was sent to them.



Mr Andrew McLaughlin

Legal Member

17 April 2019