



**DECISION AND STATEMENT OF REASONS OF MARTIN J. MCALLISTER
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 4, 11 West Bowling Green Street, Leith, Edinburgh, EH6 5PQ

Case Reference: FTS/HPC/PR/22/1820

Jordan Bibby ("**the Applicant**")

Damien McLaughlin ("**the Respondent**")

1. On 10TH June 2022, an application which was dated 27th May was received by the Tribunal by email. The application was made under Rule 103 of the Rules of Procedure and was an application for an order for payment in respect of the Respondent's alleged failure to carry out his duties in relation to the Tenancy Deposit Schemes (Scotland) Regulations 2011("the Regulations").
2. With the application had been submitted a copy of a document entitled "Lodger Agreement."
3. The Tribunal considered that the application was lacking in necessary documentation. On 15th June 2022, the Applicant was asked to provide information with regard to the end date of the tenancy and was advised that, if the Respondent had been residing in the Property along with the Applicant, the Regulations would not apply.
4. Information was provided by the Applicant but he did not provide a date for the

end of the tenancy. He did confirm that the Respondent resided in the Property during his period of occupation.

5. On 22nd June 2022, the Applicant was written to and asked for the end date of the tenancy and was again advised that a Lodger Agreement would be exempt from the Regulations if the Respondent had resided in the Property with the Applicant.

B DECISION

1. 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."

2. 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.

C RELEVANT LEGISLATION

Regulation 9 of the Regulations

(1) A tenant who has paid a tenancy deposit may apply to the First-tier Tribunal for an order under regulation 10 where the landlord did not comply with any duty in regulation 3 in respect of that tenancy deposit.

(2) An application under paragraph (1) must ... be made no later than 3 months after the tenancy has ended."

Regulation 2 of the Regulations defines a "tenant" as a tenant of a relevant tenancy and includes joint tenants and former tenants by whom a tenancy deposit was paid.

D REASONS FOR DECISION

1. 1. The Applicant, in terms of the Lodger Agreement submitted by him, occupied part of the Property.
2. The Respondent was a resident landlord in the Property.
3. The contract between the parties was not a relevant tenancy and the Regulations do not apply.

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 J Taylor on request.

Martin J. McAllister
Legal Member
12th July 2022