



**Decision with Statement of Reasons of Alan Strain, 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/22/3020**

**Re: 17 Sycamore Drive, Hamilton, ML3 7HF ("the Property")**

### **Parties**

**Miss Elizabeth McDade (Applicant)  
Mr Liam Emmett (Respondent)**

**Tribunal Member:**

**Alan Strain (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 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 24 August 2022. The application was in respect of an alleged failure of the Landlord to protect a tenancy deposit under the **Tenancy Deposit Schemes (Scotland) Regulations 2011 (Regulations)**.

2. The Application was incomplete and further information was requested by letter of 26 August 2022 as follows:

*"1. Please re-submit the application form with section 7 completed. The form must indicate the basis for the application and the order being sought. 2. Please confirm the date that the tenancy ended and provide evidence, if available."*

3. The Applicant responded with the additional information by email of 8 September 2022. The Applicant confirmed the tenancy end date as 7 June 2022.

4. The ***Tenancy Deposit Schemes (Scotland) Regulations 2011 (Regulations)*** clearly provide in terms of Regulation 9.2 that an application “*must be made no later than 3 months after the tenancy has ended.*” The Tribunal has no discretion to extend the time limit or allow an application late. If an application is received after the expiry of the 3 month time limit in Regulation 9.2 then that is an end of the matter notwithstanding any explanation that may be advanced by an Applicant.

5. An application is treated as having been made when all of the required information has been provided to the tribunal. The tribunal did not receive all of the required information until 8 September 2022.

### **Reasons for Decision**

6. 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-*

*(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."*

7. The application seeks to proceed under Rule 103 and Regulation 9 of the Regulations. Regulation 9.2 provides that such applications should be made no later than 3 months after the tenancy has ended. Whilst the Applicant submitted her application on 24 August 2022 the application was not complete with the required information until 8 September 2022 which is more than 3 months after the tenancy has terminated. The application is out of time and the Tribunal cannot grant the order sought.

8. The Tribunal consider that there is good reason why the application should not be accepted as it is out of time. 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.**



**21 September 2022**

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**Legal Member/Chair**

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**Date**