

Housing and Property Chamber
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF MELANIE BARBOUR, 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

Case reference FTS/HPC/PR/21/1193

Parties

Luda Ltd (Applicant)

Gifturkarma Ltd (SC411801), Gifturkarma Ltd (SC411801) (Respondent)

205 Fenwick Road, Glasgow, G46 6JD (Property)

1. On 18 May 2021, an application was received from the applicant. The application was made under Rule 103 of the Procedural Rules, being an application seeking an order that there has been a breach of the tenancy deposit regulations.
2. By letters from the Tribunal dated 2 June, 1 and 30 July all 2021, the Tribunal requested further information namely :-
 - a. A response to the fact that it appeared that both parties were companies; and the lease was for commercial premises. If this was the case, the Housing and Property Chamber would not have jurisdiction to deal with the dispute. Noting that jurisdiction in the Housing and Property Tribunal relates to houses which are let to individuals. The applicant was asked to consider the matter, if it considered that this tribunal had jurisdiction to deal with the application, then they needed to explain why, referring to relevant statutory authority. Alternatively if it agreed that the

dispute relates to a deposit paid in relation to a commercial lease then they were asked to withdraw the application.

3. The applicant failed to respond to the further information request.

DECISION

4. 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."

5. After consideration of the application, the attachments and correspondence from the applicant, 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

6. The Tribunal has requested further information to support this application from the applicant and to demonstrate that the Tribunal had jurisdiction to deal with the matter. The applicant has not provided the information requested.
7. I consider that the applicant's failure to provide this information to support the application, as requested by the Tribunal, gives me good reason to believe that it would not be appropriate to accept the application in circumstances where the applicant is apparently unable to do so in order to progress this application.
8. Accordingly, for this reason, the application must be rejected upon 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.

Melanie Barbour
Legal Member
26th August 2021