



Decision and statement of Reasons of the First Tier Tribunal (Housing and Property Chamber)

Under Rule 8 of the First Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ‘the Rules’.

In respect of application by Miss Jemma Cowan in terms of rule 103 of the Rules.

Case reference FTS/HPC/PR/22/2140

At Glasgow on the 28 July 2022, Lesley Anne Ward, legal member of the First –Tier Tribunal ‘the Tribunal’ with delegated powers of the Chamber President, rejected the above application in terms of Rule 8(1) (a) and (c) of the Rules

1. This is an application by Miss Jemma Cowan for a penalty regarding a tenancy deposit in terms of rule 103 of the Rules.
2. The inhouse convenor reviewed the application and the tribunal wrote to the applicant’s representative on 6 July 2022 seeking further information as follows:

Please confirm the end date of the tenancy. All applications for failure to protect a tenancy deposit must be made within 3 months of the tenancy ending. The tribunal has no discretion to extend this time limit
3. The applicant did not respond and a reminder was sent by the tribunal on 19 July 2022.
4. No reply was received to the reminder.
5. Rule 8(1)(a) of the Rules allows an application to be rejected by the Chamber President if **“they consider that an application is vexatious or frivolous”**.
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”.

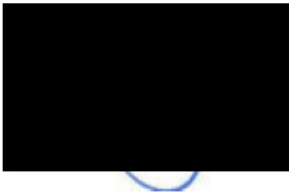
7. I consider that this application is frivolous or vexatious and has no reasonable prospect of success as the essential information required for it to proceed has not been provided, despite a request being sent by the tribunal and a reminder. Further, in terms of Rule 8(c) of the rules I have good reason to consider that it would not be appropriate to accept this application as it is incomplete and the applicant has failed to cooperate with the tribunal in the execution of its duties.
8. It is open for Miss Cowan to resubmit the application with the correct supporting documentation bearing in mind the application must be made within three months from the end date of the tenancy.

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 this 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 them. Information about the appeal procedure can be forwarded on request.



Lesley Anne Ward

Legal Member