



**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/21/1019**

**Parties**

**Mr Andrew Fulton (Applicant)**

**Mr James Nicol (Respondent)**

**62 Fonthill Avenue, Aberdeen, AB11 6TF (Property)**

1. On 29 April 2021, an application was received from the applicant. The application was made under Rule 103 of the Procedural Rules, being an application for an order for under the tenancy deposit regulations.
2. By letters from the Tribunal dated 7 May and 4 June both 2021, the Tribunal requested further information namely :-
  1. *In the application you state that the tenancy ended on 4 December 2020. The application was not submitted until 29 April 2021. An application in terms of Rule 103 has to be submitted no later than 3 months after the tenancy has ended.*
  2. *Please confirm the basis upon which the Tribunal can proceed to consider the application. 2. You have not completed the whole application form. Please note that section 7c must be completed, if the application is proceeding.*
3. The applicant failed to provide the further information requested.

**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. 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**

Melanie Barbour  
Legal Member  
8 July 2021