



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 27 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Rules”).**

**Chamber Ref: FTS/HPC/PR/22/1285 and FTS/HPC/CV/23/3202**

**Property at Copper Beeches, Ardgilzean, Elgin, IV30 8XT (“the Property”)**

**Parties:**

**Mr Lodewyk Johnson, MV Tranen, Poplar Dock Marina, London, E14 5SH (“the Applicant”)**

**Mr Michael Ramsay, Seaview, Findhorn, Forres, IV36 3YE (“the Respondent”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member) and Helen Barclay (Ordinary Member)**

**Decision (in absence of the Applicant and the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be dismissed.**

## **Background**

1. The Applicant lodged an application in terms of the 2011 Regulations (“the deposit application”). Following a CMD on 23 March 2023, the Tribunal determined that the Respondent had failed to comply with the 2011 Regulations and made a payment order in favour of the Applicant. The Respondent appealed against the decision. On 24 November 2023, the Upper Tribunal upheld the appeal, quashed the decision and remitted the application to a freshly constituted tribunal to reconsider the application in accordance with directions from the Upper Tribunal as set out in their written decision with statement of reasons.
2. On 12 September 2023, the Applicant lodged a second application seeking a payment order in relation to the tenancy deposit and an overpayment of rent (“the payment application”). This application was served personally on the

Respondent by Sheriff Officer.

3. Two related cases had also been lodged with the Tribunal, involving the same property and Respondent and similar factual and legal issues. These applications were grouped with the present applications, and the parties were all notified that a CMD would take place on 16 April 2024 by telephone conference call. The related cases were later withdrawn.
4. The Respondent notified the Tribunal that he had been sentenced to a period of imprisonment and sought a postponement of the CMD, as he was unable to prepare for it or participate, while he was incarcerated. The Tribunal agreed to postpone the CMD. This was rearranged and further postponed on various occasions for the same reason. In August 2025, the Respondent notified the Tribunal that he was due to be released in November 2025. A further CMD was arranged for the 7 January 2026, to take place by telephone conference call. The parties were notified.
5. The Respondent failed to notify the Tribunal when he was released or provide new contact details. The letter notifying him of the new date for the CMD was sent to the Prison and returned marked "not in custody". This was shortly before the Christmas holiday period. A copy of the letter was sent by recorded delivery post and by email to the Respondent on 5 January 2026.
6. The CMD took place on 7 January 2026 at 10am. Neither party participated.
7. The Tribunal noted that the notification of the CMD was sent to the Applicant to the email address previously provided and used by the Applicant when corresponding with the Tribunal. However, there had been no recent contact from him. The Respondent had contacted the Tribunal in August 2025, stated that he was due for release later that year, but he had not been in contact since that date. He did not receive the notification of the CMD issued on 11 November 2025 as he had already been released from custody. The Tribunal sent a copy of the letter to his email address, but this was not sent until the afternoon of the 5 January 2026. A recorded delivery copy of the letter was also issued but may not have been delivered before the CMD was due to take place. The Respondent has not notified the Tribunal if his contact details had changed.
8. The Tribunal also noted the following: -
  - (a) In their decision, the Upper Tribunal directed the Tribunal to arrange an evidential hearing for the deposit case, restricted to the question of whether the Respondent was a resident landlord and therefore exempt from the requirements of the 2011 Regulations. This is the only aspect of the FTT decision which was successfully appealed.
  - (b) The payment application, although served in March 2024, had not previously been considered by the Tribunal. If the Respondent was a resident landlord at the relevant time, the Tribunal did not have jurisdiction to consider this application as the tenancy could not have been a private residential tenancy. The Tribunal did not know whether the Respondent had repaid the deposit after

the application was lodged, if the landlord accepted that there had been an overpayment of rent and whether this had been repaid.

9. The Tribunal was satisfied that it was not possible to make a fair and just decision on the applications without an evidential hearing, as directed by the Upper Tribunal. The Tribunal determined that an evidential hearing should be scheduled. However, this would not be arranged until the Applicant had confirmed that he wished to proceed with the applications and that he would attend or participate.
10. The Tribunal issued a direction to the parties. The Applicant was directed to notify the Tribunal by 28 January 2026, if he wished to withdraw or proceed with the applications. He was also directed to provide an explanation for his failure to participate in the CMD and confirm that he would attend the Hearing, if this was arranged. The Applicant was put on notice that the applications might be dismissed if he failed to respond to the direction. The Respondent was directed to provide his current home and email addresses.
11. The direction and a note on the CMD were issued to the parties on 14 January 2026. On 8 January 2026, the Respondent sent two emails to the tribunal administration although these were not circulated to the Tribunal until 14 January 2026. The Respondent provided his current contact details and advised that he had experienced IT problems and that he had not received the letter notifying him about the CMD until after it had taken place. The Respondent's emails were also crossed over to the Applicant. The Applicant did not respond to the direction and did not contact the Tribunal.

### **Reasons for Decision**

12. Rule 27 of the Procedure Rules states: -
  - (2) The First-tier Tribunal may dismiss the whole or part of the proceedings if the applicant has failed to –
    - (a) Comply with an order which stated that failure by the applicant to comply with the order could lead to the dismissal of the proceedings or part of them; or
    - (b) Co-operate with the First-tier Tribunal to such an extent that the First-tier Tribunal cannot deal with the proceedings justly and fairly.
13. The Applicant did not participate in the CMD which took place on 7 January 2026 and did not contact the Tribunal in advance of the CMD to advise that he could not attend or request a postponement. The Applicant also failed to respond to the direction which required him to provide an explanation for his failure to participate and confirm if the applications are to proceed.
14. In the circumstances, the Tribunal is satisfied that the Applicant has failed to cooperate with the Tribunal to such an extent that it is not possible to deal with

the proceedings justly and fairly. The Applicant has also failed to comply with a direction, having been notified that the applications may be dismissed if he failed to do so. The Tribunal concludes that the applications should be dismissed.

### **Decision**

15. The Tribunal determined that the application should be dismissed in terms of Rule 27(2)(b) of the Procedure Rules.

### **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.**



**Josephine Bonnar, Legal Member**

**6 March 2026**