



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Regulation 9 of the Tenancy Deposit
Schemes (Scotland) Regulations 2011**

Chamber Ref: FTS/HPC/PR/20/1527

Re: Property at Flat 0/1, 68 Kent Road, Glasgow, G3 7EF (“the Property”)

Parties:

**Miss Alexandra Kennedy, 2 Vernon Cottages, Pittville Street Lane, Edinburgh,
EH15 2BT (“the Applicant”)**

**Mr Mohammad Shafiq, 18 Meadowhill, Newton Mearns, Glasgow, G77 6SX
 (“the Respondent”)**

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Applicant)

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

Background

1. The Applicant submitted an application in respect of an alleged breach of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the 2011 Regulations”) to the Tribunal dated 16 July 2020.
2. By Notice of Acceptance dated 26 August 2020 a legal member of the Tribunal with delegated powers accepted the application and a Case Management discussion was assigned.
3. Intimation of the Case Management Discussion was sent to the Applicant by post and to the Respondent by Sheriff Officers on 9 September 2020.
4. The Respondent submitted written representations to the Tribunal by correspondence dated 18 September 2020.

The Case Management Discussion

5. A Case Management Discussion was held by tele-conference on 7 October 2020. The Respondent attended and was supported by his son. The Applicant did not attend and was not represented. The Tribunal clerk attempted to contact the Applicant by telephone to ascertain if there was any reason for her non-attendance but was unable to make contact. The Tribunal noted that the Applicant had not sought to request a postponement of the Case Management Discussion and had not submitted any correspondence advising that she would be unable to attend.
6. The Tribunal explained to the Respondent that it would be possible to continue the Case Management Discussion to another date to ascertain if the Applicant wished to proceed with her application. The Tribunal also explained that it would not be possible to make an order against the Respondent in the absence of the Applicant but the Tribunal could consider dismissing the application for want of insistence. The Respondent asked the Tribunal to dismiss the application.

Reasons for Decision

7. The Tribunal was satisfied that proper intimation of the Case Management Discussion had been sent to the Applicant and that she ought to have been aware of the date and time of it. Given that the Applicant had not intimated any reason for her non-attendance it seemed to the Tribunal that the Respondent should not be inconvenienced further and that in all the circumstances it would be reasonable to dismiss the application. The Tribunal also took account of the recall provisions in Regulation 30 of the First-tier Tribunal for Scotland (Procedure) Regulations 2017 in making its decision.

Decision

8. The Tribunal dismisses the application for want of insistence.

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.

Graham Harding

Graham Harding
Legal Member/Chair

7 October 2020
Date

