



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)  
Act 2014**

**Chamber Ref: FTS/HPC/PR/20/2257**

**Re: Property at 17 Marketgate, Arbroath, Angus, DD11 1AZ (“the Property”)**

**Parties:**

**Miss Samantha Braid, 17 Marketgate, Arbroath, Angus, DD11 1AZ (“the Applicant”)**

**Mr Alan Davidson, 5 Gayfield, Arbroath, DD11 1QJ (“the Respondent”)**

**Tribunal Member:**

**Nicola Irvine (Legal Member)**

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

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

**Background**

The Applicant submitted an application seeking an order for payment in respect that the Respondent is said to have failed to protect her deposit. The Tribunal intimated the application to the parties by letter of 5<sup>th</sup> January 2021 and advised them of the date, time and conference call details of today’s case management discussion. In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair.

## **The Case Management Discussion**

The Respondent participated in the case management discussion which took place by conference call. The Applicant failed to take part in the discussion. The Respondent advised that the Applicant made contact with him half an hour before the case management discussion began to advise that she has vacated the property. He further advised that the Applicant paid the her deposit in instalments over a period of months and that he lodged the Applicant's deposit with a regulated scheme 3 weeks before the present application was made. He advised that he provided the Applicant with the prescribed information about the deposit.

The Tribunal was unable to explore these matters with the Applicant. The result was that in the absence of the Applicant, the Tribunal was unable to deal with the proceedings justly and fairly. The Respondent moved the Tribunal to dismiss the Application and the Tribunal acceded to that request and dismissed the application.

## **Reason for Decision**

The Tribunal had regard to the terms of Rule 27 which states:-

**27.—**(1) The First-tier Tribunal must dismiss the whole or a part of the proceedings if the First-tier Tribunal does not have jurisdiction in relation to the proceedings or that part of them.

(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.

The Applicant submitted the present application and the Tribunal issued details of today's case management discussion to both parties. The failure of the Applicant to participate in the case management discussion led to the Tribunal being unable to manage the proceedings fairly.

## **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.

Nicola Irvine  
**Legal Member/Chair**

11<sup>th</sup> February 2021  
**Date**