



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Regulation 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011/176 and under Section 16 of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/PR/24/1767

Re: Property at 28/1 Dumbiedykes Road, Edinburgh, EH8 9UU (“the Property”)

Parties:

Zainab Ali Awan, 2/2 Clearburn Crescent, Edinburgh, EH16 5ER (“the Applicant”)

Mark Lennie, 15 Park Crescent, Loanhead, EH20 9BQ (“the Respondent”)

Tribunal Member:

Joel Conn (Legal Member)

Decision (without a hearing and in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

1. This is an application by the Applicant for an order for payment where landlord has not complied with the obligations regarding payment of a deposit into an approved scheme or provision of prescribed information under regulation 9 (court orders) of the *Tenancy Deposit Schemes (Scotland) Regulations 2011/176* in terms of rule 103 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the Rules”). The PRT in question was by the Applicant to the Respondent commencing on 20 December 2023.
2. The application contained documentation said to show that a deposit of £150 (due in terms of clause 10 of the Tenancy Agreement) was paid by the Applicant to the Respondent’s partner on 27 November 2023 but that the deposit was not lodged with Letting Protection Service Scotland until 13 February 2024, and that

the information provided to LPSS by the Respondent was incorrect (as it stated that the Tenancy commenced on 1 March 2024).

3. The application was dated 18 April 2024 and lodged with the Tribunal on that day though subsequently an amended application was lodged on 28 May 2024 and this was the application approved and advanced. The amended application sought payment of “three times the deposit amount, £350, or whatever the tribunal deems fair”. (I noted that three times the deposit is actually £450.)
4. The CMD was due to call on 13 September 2024 at 14:00 by remote telephone conference call. Neither party was represented and, around 14:05, I asked the clerk to make enquiries with the Applicant on the contact details she had provided. (As no contact had been made by the Respondent by that time, no consent for contact had been provided by him.) The clerk reported around 14:15 that two attempts to telephone the Applicant had failed, with the number ringing out on both occasions. Further, by that time neither party had yet dialled into the call.
5. In the circumstances, it was not possible to ascertain whether the Applicant no longer sought to advance her application or had simply been unable to attend on the day due to an unexpected event or misunderstanding of the process. I thus discharged the CMD of 13 September 2024 and instructed the clerk that a new CMD should be assigned, with dates to be set, but that a Notice of Direction would also be issued.
6. So as to set clear parameters on further steps, I issued a Notice of Direction requiring the Applicant to provide:
 - “1. *Written confirmation that she wishes to continue with her application; and*
 - “2. *If so, unsuitable dates (for the period October 2024 to February 2025) for the scheduling of a rescheduled case management discussion.*”The deadline within the Notice of Direction for those steps by the Applicant was close of business on 27 September 2024.
7. I made clear within the CMD Note accompanying the Notice of Direction that should I not receive the unsuitable dates and written confirmation from the Applicant by the deadline within the Notice of Direction, I would treat the application as no longer insisted upon and would at that time, and without a continued CMD, dismiss the application in terms of Rule 27.
8. On 2 October 2024, having made enquiries with the Tribunal’s clerk, I received confirmation that no response by the Applicant to the Notice of Direction had been made.

Reasons for Decision

9. Rule 27(2) 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.*

10. I am satisfied that in the absence of any response from the Applicant, and in particular a lack of the response to the Notice of Directions, the Applicant has failed under both Rule 27(2)(a) and 27(2)(b). I am satisfied that, for good administration, it is appropriate to dismiss the application so as to conclude matters and to do so without a hearing (per my powers under Rule 18).

Decision

11. In all the circumstances, I dismiss the application.

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.

Joel Conn

10 October 2024

Legal Member/Chair _____

Date