



**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/24/2279

**Re: Property at 48 Morningfield Mews, Westend, Aberdeen, AB15 4ER (“the
Property”)**

Parties:

**Mrs Salma Abdelwahab, 40 Aspire Grove, 36 Claremont Street, Aberdeen, AB10
6RA (“the Applicant”)**

Mr Ian Henry Laing, St James Place, Inverurie, AB51 3UB (“the Respondent”)

Tribunal Members:

Rory Cowan (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 in terms of Rule
27(2)(b) of the First-tier Tribunal for Scotland Housing and Property Chamber
(Procedure) Regulations 2017 (as amended) (the Rules).**

- Background

By application dated 18 May 2024, the Applicant sought an order against the Respondent under Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (as amended) (the Regulations). She contended that the Respondent had a duty under regulation 3 of the Regulations to pay the deposit she paid for her tenancy of the Property into an approved tenancy deposit scheme and issue prescribed information under Regulation 42 to her within 30 working days of the beginning of their tenancy and that the Respondent failed to do so.

A Case Management Discussion (CMD) was initially fixed for 28 August 2024 to be heard by way of conference call. The said application was thereafter intimated to the Respondent. In advance of the CMD and by letter dated 15 August 2024, a written response to the said application was lodged by the Respondent.

Prior to that CMD both the Applicant and the Respondent dialled in to join the conference call. However, shortly before the CMD started both parties left the call for an unknown reason. The Respondent was able to dial back into the CMD, but the Applicant did not. An unsuccessful attempt was made to contact the Applicant by the Tribunal clerk. Despite allowing further time, the Applicant did not rejoin the conference call. That being the case and in the interest of fairness the Tribunal with the consent and agreement of the Respondent decided to adjourn the CMD and continue it to another date to allow both parties to take part.

A further CMD was arranged for 18 March 2025 again to be heard by way of conference call. At that CMD the Respondent again appeared with a supported a Mr Nicholas Laing, but the Applicant did not attend or arrange to be represented.

- The Case Management Discussion

A further CMD was arranged for 18 March 2025 again to be heard by way of conference call. At that CMD the Respondent again appeared with a supported a Mr Nicholas Laing, but the Applicant did not attend or arrange to be represented. This despite the date and time as well as the requirement to attend being intimated to ger on 15 February 2025.

- Reasons for Decision

Rule 27(2)(b) of the Rules states as follows:

“(2) The First-tier Tribunal may dismiss the whole or part of the proceedings if the applicant has failed to —

(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.”

Further, Rule 2 of the Rules states as follows:

“(1) The overriding objective of the First-tier Tribunal is to deal with the proceedings justly.

(2) Dealing with the proceedings justly includes—

(a) dealing with the proceedings in a manner which is proportionate to the complexity of the issues and the resources of the parties;

(b) seeking informality and flexibility in proceedings;

(c) ensuring, so far as practicable, that the parties are on equal footing procedurally and are able to participate fully in the proceedings, including assisting any party in the presentation of the party’s case without advocating the course they should take;

(d) using the special expertise of the First-tier Tribunal effectively; and

(e) avoiding delay, so far as compatible with the proper consideration of the issues.”

The Applicant was made aware of the date of the CMD on 18 March 2025 and of the requirement to be present at same. The continued CMD had been fixed to allow her to attend due to difficulties she had experienced at the last CMD. Notwithstanding, she failed to appear again without explanation and therefore to insist upon the Application.

That being the case, the Tribunal was of the view that, due to the Applicants' failure to cooperate with the Tribunal, the Tribunal was not in a position to deal with the proceedings justly and fairly and the Application should be dismissed under Rule 27(2)(b) of the Rules.

- Decision

The decision of the Tribunal was that the Application should be dismissed.

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.

R.Cowan

Legal Member

— 18 March 2025

Date