



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Regulations 9 and 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the Regulations”)

Chamber Ref: FTS/HPC/PR/24/3833

Re: Property at 6 Victoria Place, Brechin, Angus, DD9 7BH (“the Property”)

Parties:

Miss Lesley Urquhart, 6 Victoria Place, Brechin, Angus, DD9 7BH (“the Applicant”)

Mr Bruce Findlay, Easter Balgillo, Tannadice, By Forfar, Angus, DD8 3QS (“the Respondent”)

Tribunal Members:

Steven Quither (Legal Member)

Decision (in absence of the Applicant)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application be dismissed in terms of Rule 27(2)(b) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”).

BACKGROUND

1. This an application for an order for payment under Regulations 9 and 10 of the Regulations in respect of a deposit arising out of a Private Residential Tenancy (“PRT”) between the parties in respect of the Property commencing 1 April 2019.

2. The application was dated 15 August 2024 and, after Tribunal requests for further information and clarification dated 22 August and 6 September 2024 were answered by the Applicant on or about 28 August and then 12 September 2024 (by way of an amended application), was accepted by the Tribunal on 17 September 2024.
3. A Case Management Discussion ("CMD") was then fixed for 25 March 2025, which was postponed at the Applicant's request.
4. A further CMD was then fixed for 10 July 2025 at 10am and intimated to the Applicant by letter of 26 April 2025, sent by email to her email address of lesley-42@hotmail.co.uk as advised in both her original application of 15 August 2024, then her amended application of 12 September 2024, as well as to the Respondent by letter of the same date.

CASE MANAGEMENT DISCUSSION on 10 JULY 2025

5. The CMD duly took place by teleconference on 10 July 2025.
6. Since, at about 10am only the Respondent was in attendance, along with his wife, the Tribunal Clerk attempted to contact the Applicant by telephone to enquire about her non-attendance. This proved to be unsuccessful, said call being unanswered except for an automated message that it was not possible to connect to the number concerned, or similar.
7. Upon then commencing the CMD, shortly after 10am, the Respondent and his wife could offer no explanation as to the Applicant's non-attendance, stating they had very little contact with her.
8. The Tribunal considered the terms of said intimation letter to the Applicant of 26 April 2025, noting in particular its confirmation of the date and time of the CMD, its highlighting of the requirement for the Applicant to take part in it and its confirmation that lack of participation in same would not necessarily prevent the Tribunal making a decision.
9. It also took account of the fact that intimation in virtually identical terms as above stated had been sent to the Respondent, who was in attendance.
10. Having done so, it was satisfied, on the balance of probabilities and in the absence of any information to the contrary, that the Applicant was aware of the date and time of today's CMD but, for some reason, had not attended.

11. In these circumstances, the Tribunal therefore considered whether it was entitled to dismiss the application under Rule 27(2)(b) of the Rules, on the basis that the Applicant, ostensibly at least, being aware of the date and time of the CMD, had failed to attend same.

12. Said Rule states:--

“Dismissal of a party’s case

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.”

13. In the circumstances ie the lack of attendance by the Applicant, the Tribunal decided that she had failed to co-operate with it to such an extent that it could not then comply with its overriding objective of dealing with the proceedings justly and fairly and that accordingly the application fell to be dismissed in terms of said Rule 27(2)(b).

14. In confirming its decision to the Respondent, the Tribunal advised him that there were certain avenues which the Applicant might pursue in light of this decision, but that any such decision was a matter for the Applicant.

DECISION

15. To dismiss the proceedings under Rule 27(2)(b) of the 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.

S. Quither

10 JULY 2025

Legal Member/Chair

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Date