



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 103 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Regulations”) and The Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the 2011 Regulations”)

Chamber Ref: FTS/HPC/PR/25/2021

Re: Property at 70D Polepark Road, Dundee, DD1 5QP (“the Property”)

Parties:

Mr Robert Thorne, 21 Camault Muir, Kiltarlity, IV4 7JH (“the Applicant”)

Samuel Housing Ltd, 23 Lawson Glade, Livingston, West Lothian, EH54 9JT (“the Respondent”)

Tribunal Members:

Nicola Weir (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. By application received on 12 May 2025, the Applicant applied to the Tribunal for an order for payment against the Respondent in respect of failure to carry out their duties as landlord in relation to a tenancy deposit. The failure alleged was a failure to lodge the deposit within an approved scheme within the required time limit (30 working days) in terms of the 2011 Regulations. Compensation was sought. Supporting documentation was lodged in respect of the application.
2. Following initial procedure, on 15 May 2025, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.

3. On 8 October 2025, a copy of the application papers and details of the Case Management Discussion (“CMD”) to take place were served on the Respondent by Sheriff Officer. Written representations were invited.
4. The Applicant was notified of the details of the CMD by email on 7 October 2025.
5. On 11 October 2025, the Applicant lodged additional supporting documentation.
6. On 13 October, the Respondent lodged written representations, disputing the claim and also lodging supporting documentation.

Case Management Discussion

1. The CMD took place by telephone conference call on 14 November 2025 at 10am. Only the Respondent, Mr Saji Samuel, of Samuel Housing Ltd was in attendance, so the Tribunal delayed the commencement of the CMD for 5 minutes to give the Applicant an opportunity to join late. He did not do so. On the Legal Member's instructions, the Tribunal Clerk tried to contact the Applicant by telephone but this was unsuccessful. Accordingly, the CMD proceeded in the absence of the Applicant.
2. As a preliminary matter, the Legal Member explained to Mr Samuel that it had been noted that this application had in fact been brought against Samuel Housing Ltd, rather than against Mr Samuel as an individual and that this was also the position reflected in the tenancy agreement. The name of the Respondent had been incorrectly stated in the Tribunal's case management system. As Mr Samuel had no objection to this being corrected, the Legal Member indicated that she would do so and that the Tribunal paperwork would now reflect the name of the Respondent as Samuel Housing Ltd.
3. It was noted that Mr Samuel maintained his position that the payment of £400 made at the outset of the tenancy by Mr Thorne was not a deposit but an advance rent payment, so there could be no breach of the tenancy deposit regulations. The Legal Member explained that, had Mr Thorne been present, there may have required to be further discussion regarding the issue, but as he was absent and the Tribunal had not been contacted or provided with a reason for the Applicant's non-attendance, it was assumed that he did not wish to proceed with the application and it would be dismissed. It was explained that the parties' would both be notified in writing of this decision and that, in the event that Mr Thorne contacts the Tribunal with an explanation, Mr Samuel would be notified and given an opportunity to comment.
4. Mr Samuel wished to raise some issues regarding the terms of the tenancy agreement and also regarding expenses, given that he had made arrangements to be in attendance today and the Applicant had not shown up. The Legal Member explained the general position regarding expenses not

being granted in respect of Tribunal proceedings unless a party is put to unreasonable expense and that she would not award any expenses at this stage, in these circumstances. It was confirmed, however, that should there be subsequent procedure in this application, or should the same thing happen again, Mr Samuel could raise the issue of expenses again. Mr Samuel was urged to seek his own legal or landlord advice in respect of the other matters raised as the Tribunal could not provide him with legal advice.

Reasons for Decision

1. The Tribunal considered the application, the Respondent's position in relation to it, the written submissions lodged previously by both parties and the Applicant's failure to attend the CMD, having been properly and timeously notified regarding same, or to contact the Tribunal in advance of the CMD.
2. The Tribunal determined that the application should be dismissed, for want of insistence by the Applicant, in terms of Rule 27(2) of the Regulations which is as follows:-

"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."

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.

