



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/CV/25/1361

Re: Property at 12/5 MURRAYBURN GREEN, EDINBURGH, EH14 2PL (“the Property”)

Parties:

Miss Wen-Hui Helen Chuang, 10/10 Gayfield Street, Edinburgh, EH1 3NR (“the Applicant”)

Relax Real Estate Ltd; Mr Aizaz Jan, 44 BROOMHOUSE COURT, EDINBURGH, EH11 3RN (“the Respondent”)

Tribunal Member:

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 31 March 2025, as subsequently amended, 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 6 June 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 24 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 23 October 2025, sent to the same email address used throughout the application.
5. On 24 October 2025, the Respondent emailed the Tribunal providing details of his representative, Mr Esa Jan, who was dealing with this matter on his behalf.
6. On 3 December 2025, the Respondent’s representative lodged detailed written representations on behalf of the Respondent, by email. The Respondent opposed the application on the basis that no tenancy deposit had been taken from the Applicant and that the payment made by her at the beginning of the tenancy had been two months’ advance rent, as is stated in the paperwork, not one months’ advance rent and a deposit. Supporting documentation was produced. These representations were circulated by the Tribunal to the Applicant by email.
7. On 14 December 2025, the Respondent’s representative lodged an amended version of their written representations of 3 December 2025, amending some errors. As these were lodged on a Sunday, the Tribunal Administration did not pick these up until the following day, the morning of the CMD, but circulated a copy to the Applicant by email prior to the CMD start time of 10am.

Case Management Discussion

1. The CMD took place by telephone conference call on 15 December 2025 at 10am. Only the Respondent’s representative, Mr Esa Jan, was in attendance, so the Tribunal delayed the commencement of the CMD for over 5 minutes to give the Applicant an opportunity to join late. She did not do so. The Legal Member checked that the Applicant had been correctly and timeously notified of the CMD. Having noted that the Applicant had been notified by email, to the correct email address, on 23 October 2025, and confirmed that the Applicant had not been in contact with the Tribunal Administration in advance of the CMD to indicate that she would not be attending, the Legal Member decided to proceed with the CMD in the absence of the Applicant.
2. Following introductions and introductory comments, the Legal Member explained to Mr Jan that there had been no advance contact from the Applicant that she would not be attending the CMD and that she had been notified of it and had also been notified of the written representations lodged on behalf of the Respondent. It was noted that the Respondent maintained his position that no deposit was taken from the Applicant and that there could accordingly be no breach of the tenancy deposit regulations. Mr Jan referred to the paperwork

lodged which shows that the payment made by the Applicant at the beginning of the tenancy was for two months' advance rent. She has stated as the reference in her bank transfer "Helen 2 months" and the tenancy agreement makes no mention of a deposit being payable. Mr Jan referred to the messages between he and the Applicant where all the figures are explained and why the Applicant's calculation of the rent she was due to pay was wrong, as she was obliged to give 28 days notice and kept changing the date she was moving out. There were other issues to do with the condition in which the Property was left but the Legal Member stated that these matters were not relevant to consideration of this application which was only to do with the alleged breach of the tenancy deposit regulations.

3. The Legal Member explained that, had the Applicant been present, there may have required to be further discussion regarding the issue, if she contested the Respondent's version of events. However, as she was absent and the Tribunal had not been contacted or provided with a reason for the Applicant's non-attendance, it was assumed that she did not wish to proceed with the application and it would therefore be dismissed. It was explained that the parties would both be notified in writing of this decision and that, in the event that the Applicant contacts the Tribunal with an explanation for non-attendance and seeks to Recall or Appeal the decision to dismiss, Mr Jan would be notified and given an opportunity to comment. Mr Jan was thanked for his attendance and the CMD concluded.

Reasons for Decision

1. The Tribunal considered the application, the Respondent's position in relation to it, the documentation lodged 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.

Nicola Weir

Nicola Weir

Legal Member/Chair

15 December 2025
Date