



**Notes on a Case Management Discussion of the First-tier Tribunal for Scotland (Housing and Property Chamber) in respect of an application seeking to enforce the Letting Agent Code of Practice (“the Code”) under Section 48 of the Housing (Scotland) Act**

Case reference FTS/HPC/LA/25/1143

**Parties**

**Ms Rhona Birchall (Applicant)**

**Gardiner Waters (Respondents)**

**Basement Flat, 35 Marywood Square Strathbungo Glasgow G41 2BN (Property)**

**Tribunal Members:**

**James Bauld (Legal Member) and Elaine Munroe (Ordinary Member)**

**Background**

1. By application dated 12 March 2025, the applicant applied to the tribunal alleging breaches of thirteen sections of the Letting Agent Code of Practice (“the Code”) contained in Letting Agent Code of Practice (Scotland) Regulations 2016.
2. On 16 July 2025 the application was accepted by the tribunal and referred for determination by the tribunal.
3. A Case Management Discussion (CMD) was set to take place on 27 March 2026, and appropriate intimation of that hearing was given to both parties. An earlier CMD had been postponed.

## **The Case Management Discussion**

4. The Case Management Discussion (CMD) took place on 27 March 2026 via telephone case conference. The applicant was not present. Mr Craig Gardiner attended on behalf of the respondents. The clerk to the tribunal attempted to contact the applicant by telephone but could get no answer from the number contained in the application
5. The tribunal explained the purpose of the CMD, the overriding objective of the tribunal to deal with proceedings justly as set out in rule 2 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017("the procedure rules") and the powers available to the tribunal to determine matters
6. Mr Gardiner requested that the application be dismissed. It was his position that his agency had fully complied with the Code. He had lodged written submissions enclosing documents supporting that position. It was his position that the applicant's complaint related to the agreement made between the applicant and the landlord with the relevant tenancy deposit scheme that the tenancy deposit should be returned to the landlord. Mr Gardiner suggested the applicant now regretted that agreement and that she had separately raised a Small Claims action at the Sheriff Court seeking to have the deposit returned to her. Mr Gardiner indicated that the applicant had failed to attend a sheriff court hearing in relation to that application. It was his position that the application should not be further adjourned.
7. The tribunal noted that the applicant had been given proper notification of the case management discussion. She has failed to attend the case management discussion and had not contacted the tribunal to provide any explanation for her non-attendance
8. The tribunal notes the position adopted by the respondents that the application appears to relate to a dispute relating to the repayment of the tenancy deposit which is a matter entirely outwith the control of the letting agent
9. In the absence of the applicant and taking into account the overriding objective of the tribunal contained in the procedure rules, the tribunal agreed with the respondent that the application should be dismissed and that no further hearing should be fixed.

**Outcome**

The application is dismissed.

**NOTE: This document is not confidential and will be made available to other First-tier Tribunal for Scotland (Housing and Property Chamber) staff, as well as issued to tribunal members in relation to any future proceedings on unresolved issues.**

**Jim Bauld**

**2/4/26**

---

**Legal Member**

---

**Date**