

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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/18/1105**

**Re: Property at 11 Barshaw Drive, Paisley, PA1 3SG ("the Property")**

**Parties:**

**Mr Ini Usoro, Mrs Natalie Usoro, G/2 6 West Street, Paisley, PA1 2UJ; G/2 6  
West Street, Paisley, Renfrewshire, PA1 2UJ ("the Applicant")**

**Mr Charles Kelly, 15 Cunningham Gardens, Johnstone, PA6 7GA ("the  
Respondent")**

**Tribunal Members:**

**Alastair Houston (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the  
Tribunal") determined that the application should be refused.**

**Background**

This is an application under Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 ("the Regulations") whereby the Applicant seeks an order for payment of £1875.00, being three times the deposit paid in connection with a relevant tenancy within the meaning of the Regulations. The application was accompanied by copies of tenancy agreements between the parties, ancillary documentation, proof of payment of the deposit to the Respondent's previous letting agents and correspondence between the Applicant and the Respondent's current letting agents.

**Case Management Discussion**

The Case Management Discussion took place on 24 August 2018. The Applicant, Mr Ini Usoro, was personally present. There was no appearance from or on behalf of the Respondent.

The Applicant confirmed he insisted on the Application. From the papers, the Tribunal considered that the Respondent had been given notice of the Case Management Discussion as required by the The First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules") and proceeded with the Case Management Discussion.

### **Reasons for Decision**

The present application is dated 3 May 2018 and was received by the Tribunal on 8 May 2018. The Applicant confirmed that notice had been given to the landlord's letting agent to terminate the tenancy agreement on 31 January 2018. Although they had vacated the property earlier, they paid rent up until this date.

Regulation 9(2) of the Regulations states that an application to the Tribunal seeking an order under Regulation 10 "*must be made no later than 3 months after the tenancy has ended*". The Tribunal considered that the tenancy between the parties in the present application ended on 31 January 2018. Accordingly, the Regulations required the present application to be made no later than 30 April 2018.

The Applicant advised that he had made efforts to resolve matters through the Respondent's letting agents. The present application was a last resort when those efforts failed.

The Tribunal considered the time limit imposed by the Regulations alongside the overriding objective contained within Rule 2 of the Rules. The overriding objective is to deal with the proceedings justly and includes seeking flexibility in proceedings. The Tribunal concluded that the overriding objective did not include a power or discretion to waive the time limit contained within the Regulations.

### **Decision**

As the present application is timebarred, the Tribunal refuses the application.

### **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.

**Alastair Houston**

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Legal Member/Chair

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Date

24 August 2018