



**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/18/0703**

**Re: Property at 28 Low Road, Perth, PH2 0NF (“the Property”)**

**Parties:**

**Miss Laura Byers, Mr Alisdair Cecil McMullen, 29a Murray Crescent, Perth, PH2  
0HN (“the Applicants”)**

**Mr James Forrester, 51 Lynedoch Road, Perth, PH2 6RJ (“the Respondent”)**

**Tribunal Members:**

**David Preston (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
tribunal”) determined that the application was out of time in terms of  
Regulation 9(2) of the Tenancy Deposit Schemes (Scotland) Regulations 2011  
and accordingly rejected the application.**

**Background:**

1. By application under Rule 3 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 dated 14 March 2018 the applicant sought repayment of the deposit plus compensation for the delay and effort they have had to make to get advice for dealing with [the Respondent’s] mistake.
2. By Notice of Acceptance dated 29 March 2018 a legal member of the First-tier Tribunal with delegated powers so to do accepted the application for determination by the First-tier Tribunal.
3. A Case Management Discussion took place at Inveralmond Business Park on 13 June 2018. The Respondent attended the Discussion along with his wife, Mrs Isobel Forrester. The Applicants had indicated by email in advance of the Discussion that they were unable to attend or be represented and confirmed that they were happy for the Discussion to proceed in their absence.

### Findings in Fact:

4. The parties entered into a Short Assured Tenancy by Lease dated 16 May 2016. The lease terminated on 15 November 2016 but continued thereafter by tacit relocation until 22 December 2017 when the Applicants vacated the property and returned the keys to the Respondent.
5. The Applicants submitted the application dated 14 March 2018 to the First-tier Tribunal on 26 March 2018.
6. The tenancy ended on 22 December 2018 when the Applicants returned the keys to the Respondent.

### Reasons for Decision:

7. At the hearing the Respondent said that he considered the application to be out of time in terms of Regulation 9(2) which required that it should be made no later than 3 months after the tenancy has ended.
8. The Applicants had submitted copy emails dated 29 and 30 October 2017 between the parties in which the Applicants gave notice of termination of the tenancy in which they stated that they would "...be out of the flat by the 31<sup>st</sup> of December 2017."
9. In his written response to the application dated 16 May 2018, which was copied to the Applicants, the Respondent said that the Applicants had handed back the keys at a meeting between him and the Applicants on 22 December 2017 at which final meter readings were agreed and that he had assumed responsibility for any costs relating to the property from that date. The Applicants did not make any representations contesting the Respondent's calculation of the termination.
10. In addition, within the supporting documentation lodged by the Applicants was a copy final electricity and gas bill for the period 2 October 2017 to 22 December 2017.
11. The application form, although dated 14 March 2018 was dated stamped as received by the Tribunal on 26 March 2018, which was out-with the 3 month time limit in terms of Regulation 9(2).
12. On the evidence before it the tribunal accepted the Respondent's position that the tenancy terminated on 22 December 2017 and that the application, having been made on 26 March 2018 was out of time and rejected 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.**

**Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.**

**Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.**

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**Legal Member/Chair**

**Date** 13 June 2018