



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Housing (Scotland) Act 2006 section 121 and Regulation 9 the Tenancy Deposit Schemes (Scotland) Regulations 2011

Chamber Ref: FTS/HPC/PR/24/3285

Re: Property at 186 Cardross Road, Dumbarton, G82 5DG (“the Property”)

Parties:

Imelda Houston, 24 Hazel Avenue, Dumbarton, G82 5BW (“the Applicant”)

Mr James O'Donnell, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that that the Landlord is in breach of her obligations in terms of Regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“Regulation 3”). The Respondent shall make payment to the Applicant in the sum of £1250 (ONE THOUSAND TWO HUNDRED AND FIFTY POUNDS) STIRLING.

Background

1. The Tribunal received an application from the Applicant in terms of Rule 103 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Rules 2017 which was dated on 16th July 2024. The Application included a lease which detailed that a deposit of £500 had been paid.
2. On 20th January 2025, all parties were written to with the date for the Case Management Discussion (“CMD”) of 28th February 2025 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 10th February 2025.
3. On 22nd January 2025, sheriff officers were unable to effect service.

4. Service by Advertisement was undertaken upon the Respondent from 3rd February 2025.

The Case Management Discussion

5. A CMD was held on 28th February 2025 at 2pm by teleconferencing. The Applicant was present and represented herself. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules.
6. The Applicant told the Tribunal that she had paid over her deposit at the start of the tenancy. Two weeks before she left the tenancy, during her notice period, the Respondent lodged the deposit with Safe Deposit Scotland. The Applicant was not aware of the law around lodging a deposit. She said that when she started the tenancy that she did not believe the Respondent to own any other properties. She understands that he has bought one every 14 months approximately and now owns seven altogether. The Applicant also said that when she claimed her deposit the Respondent challenged it as he wanted to retain £200 for grass cutting cost which transpired related to a piece of ground not owned by him. The Applicant has had her full deposit returned to her through Safe Deposit Scotland.
7. The Respondent has provided no evidence, either written or oral, to contradict the evidence of the Applicant.
8. The Tribunal was satisfied that the deposit was not lodged in an approved scheme within 30 days and as such the regulations had been breached. The Tribunal considered that two and half times penalty was appropriate because although there was no engagement from the Respondent and the deposit did not go into the scheme until 10 years after the tenancy started he did eventually put it in an approved scheme. This is why there is not a three times penalty being awarded which is within the powers of the Tribunal.

Findings and reason for decision

9. A Short Assured Tenancy Agreement commenced 7th August 2014.
10. A deposit of £500 was paid on 7th August 2014.
11. The tenancy ended on 30th May 2024.
12. The deposit was lodged with Safe Deposit Scotland on 18th May 2024 which is outwith 30 days from the start of the tenancy. This is a breach of the regulations.
13. The Applicant received her deposit from Safe Deposit Scotland on 15th July 2024.
14. The Respondent has failed to comply with the regulations to ensure that the deposit was lodged in an appropriate scheme within 30 days from the start of the tenancy. The Respondent has not engaged with the Tribunal process to

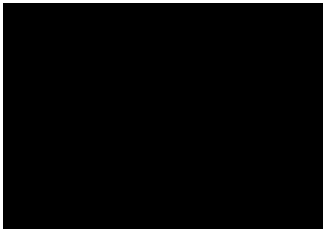
advise why this has happened and what steps have been taken to ensure that it will not happen again.

Decision

15. The Respondent has a duty under Regulation 3 to place the deposit in an approved scheme within the specified time but failed to do so. The Respondent did not engage with the Tribunal process to explain why the deposit was late and what steps had been taken to prevent such a situation happening again. The Tribunal noted that the Respondent did eventually lodge the deposit in a deposit scheme but only after the Respondent had given her notice to terminate the tenancy. The Tribunal decided that a fair, just and proportionate sanction would be to order the Respondent to pay the Applicant two and a half times the amount of the deposit (£1250.00).

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.



28th February 2025

Legal Member/Chair

Date