



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

Chamber Ref: FTS/HPC/PR/24/5550

Re: Property at Room 4, Flat 3/1, 43 Carnarvon St, Glasgow, G3 6HP (“the Property”)

Parties:

Mr Zekai Zheng, 145 Kelvinhaugh St, Glasgow, G3 8PX (“the Applicant”)

Mr Shi Tong Lin, 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 the Respondent is in breach of his 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 £1000 (ONE THOUSAND 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 29th November 2024. The Application included a lease which detailed that a deposit of £400 had been paid.
2. On 1st March 2025, all parties were written to with the date for the Case Management Discussion (“CMD”) of 15th May 2025 at 10am by teleconferencing. The letter also requested all written representations be submitted by 22nd March 2025.

3. On 1st March 2025, sheriff officers attempted to serve the letter with notice of the CMD date and documentation upon the Respondent, however, they were unable to effect service as the Respondent was not known to be living at the address provided. Service by Advertisement was undertaken upon the Respondent from 21st March 2025. It is noted that the Landlord Register was searched on the day of the CMD by the Housing and Property Chamber and it still reflected the Respondent as living at the address where the attempted service was made by the sheriff officers.

The Case Management Discussion

4. A CMD was held on 15th May 2025 at 10am by teleconferencing. The Applicant was present and represented himself. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make representations in advance of the CMD.
5. The Applicant said that he has not heard from the Respondent since he had his deposit returned at the end of September 2024. He paid the deposit by an in app payment. He paid £400 to the Applicant on 18th August 2023. This was paid in 3700 Chinese Yuan which was around 9 Yuan to the pound so equivalent to £400. The lease said £400. The Tribunal accepted that £400 was paid as a deposit.
6. The Applicant has approached all the approved deposit schemes and has found that his deposit was not lodged there.
7. The Tribunal was satisfied to grant an order for a two and a half times the deposit penalty. The reduction from a three times penalty reflects that the Respondent returned the deposit to the Applicant. The Applicant will be able to legally enforce the Order once the appeal period is over if an appeal is not lodged. He can speak to sheriff officers, a solicitor, Citizens Advice Bureau, Shelter Scotland, a law centre or other sort of organisation if he requires further advice as to how to legally enforce the order.

Findings and reason for decision

8. A Private Rented Tenancy Agreement commenced 1st September 2023. The tenancy ended on 31st August 2024.
9. A deposit of £400 (paid as 3700 Chinese Yuan) was paid on 18th August 2023 by in app transfer.
10. The Applicant received his £400 deposit at the end of September 2024. It was paid in Chinese Yuan with the conversion rate being around 9 Yuan to 1 UK Pound. It was agreed by parties that the payment of 3700 Chinese Yuan was equivalent to £400. He has not heard from the Respondent since that date.
11. The deposit was lodged with any of the approved deposit schemes.

12. 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.
13. The Respondent has not provided any evidence, either written or oral, to contradict the evidence of the Applicant.
14. 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 did not issue a full three times penalty as the deposit was returned to the Applicant at the end of 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 (£1000.00).

Decision

15. The Tribunal found that the Applicant was entitled to be granted an order for payment of a sanction which was two and a half times deposit amounting to £1000.

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.

G Miller

15th May 2025

Legal Member/Chair

Date