



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/CV/22/1706

**Re: Property at 35 Marischal Street, Castlegate, Aberdeen, AB11 5AD (“the
Property”)**

Parties:

**Miss Joanna Piechnik, 2A Girdlestone Place, Aberdeen, AB11 9LB (“the
Applicant”)**

**Mr Ian McCann, Ms Suzanne McCann, 26 Wellgrove Crescent, Westhill,
Aberdeenshire, AB32 6TH (“the Respondent”)**

Tribunal Members:

Alison Kelly (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for payment in the sum of £200 should be
made.**

Background

The Applicant lodged an application on the 18th May 2022 under Rule 111 of the First
Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations
2017 (“the Rules”) seeking payment of £200 as part of her deposit.

Lodged with the application were :

1. Tenancy Agreement dated 20th July 2021.

The Tribunal wrote to the Applicant asking her to confirm when the tenancy had
come to an end. In an email of 29th May 2022 she confirmed it ended on 15th
March 2022. The Applicant also confirmed that the amount of the deposit was
£400.

The papers were served on the Respondent by Sheriff Officers.

On 16th August 2022 the Respondents lodged Written Submissions with the Tribunal. In those submissions they accepted that they omitted to lodge the deposit of £400 in an approved scheme. They said that they managed the flat personally and did not use a letting agent. They were involved, at the time of entering in to the lease, in trying to save their business.

The Respondents maintained in their Written Submission that they should retain £200 of the deposit as the Applicant had not given the correct notice to terminate the lease. They did not consider it to be unreasonable as the Applicant had failed to pay rent. They acknowledged that they had failed in their legal duties but thought that the Applicant would acknowledge that they had been good landlords. They confirmed that they would be prepared to reimburse £200 to the Applicant immediately. They asked that the maximum penalty not be imposed. They acknowledged that they had made an error, but considered they had good grounds for the position they took in retaining £200, and that imposing the maximum penalty would be excessive and unfair.

The Respondents confirmed that they did not wish to participate in a hearing and asked for a decision to be made based on their written representation.

Case Management Discussion

The Case Management Discussion (“CMD”) took place by teleconference. The Applicant represented herself.. The Respondents did not attend and were not represented.

The Chairperson introduced everyone and explained the purpose of a CMD in terms of Rule 17.

The Chairperson confirmed with the Applicant that she was seeking a sum, to be determined by the Tribunal, in respect of the Respondents not lodging her deposit in an approved scheme. She had no comments to make in relation to the Respondents’ Written Submission apart from to confirm that she had agreed that the Respondents could retain £200 of the deposit.

Findings In Fact

1. The Applicant entered in to a tenancy agreement for the property commencing 20th July 2021;
2. The Applicant paid a deposit of £400;
3. The tenancy came to an end on 15th March 2022;
4. The parties agreed that the Respondents should retain £200 of the deposit;
5. The Respondents did not pay the remaining £200 to the Applicant.

Reasons For Decision

The parties agreed that the Respondents would retain £200 of the £400 deposit. They did not pay the remaining £200 to the Applicant and therefore it is still owed to her.

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.

A. Kelly

08/09/22

Legal Member/Chair

Date