

Housing and Property Chamber
First-tier Tribunal for Scotland



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

Chamber Ref: FTS/HPC/PR/19/0645

Re: Property at 21/9 Jarvey Street, Bathgate, EH48 4EZ ("the Property")

Parties:

Miss Rheannyn Duncan, 37 Canal View, Winchburgh, EH52 6FE ("the Applicant")

P&S Property Developments Ltd, 70 Mill Road, Bathgate, EH48 4BN ("the Respondent")

Tribunal Members:

Paul Doyle (Legal Member)

Decision Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Respondent has breached its obligations under regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011.

Background

1. On 17 July 2018 the respondent let to the applicant the dwellinghouse at 21/9 Jarvey Street, Bathgate. A Tenancy agreement was entered into which required payment of a deposit of £600.

The Case Management Discussion

2. The applicant was present. The respondent was represented by Mr L DI Costa, director of the respondent company. The respondent immediately admitted that the deposit was not paid into a deposit scheme and described his failure to do so as "*Wrong*". The respondent has 27 rental properties and habitually pays rental deposits into approved deposit schemes. In this case there had been an unintentional

omission. Both parties asked me to dispose of this case today, without the need for a further hearing.

Findings in Fact

3. On 17 July 2018 the respondent agreed to let the dwellinghouse at 21/9 Jarvey Street, Bathgate to the applicant. A tenancy agreement was entered into setting out the agreed rental and requiring a deposit of £600.

4. Before taking entry the Applicant made a deposit payment of £600. It was agreed that rental was payable on the 17th day of each month. During the course of the tenancy the date for payment of rental was changed, by agreement, to the 25th day of each month.

5. The applicant gave notice of termination of the tenancy and brought the tenancy to an end On 25 January 2019. Within 10 days of the termination of the tenancy the respondent repaid £450 of the deposit to the applicant. The respondent retained £150 to cover the rental from 17 January 2019 to 25 January 2019.

6. The landlord company did not pay the deposit into a tenancy deposit scheme. They are aware of the requirement to do so. Mr Di Resta accepts that his omission is wrong and regrets not paying the money into a deposit scheme. The respondent had no intention of depriving the applicant of repayment. The applicant has not suffered any loss as a result of the respondent's omission

Reasons for Decision

7. The respondent admits the failure to pay the deposit into a deposit scheme and understands the requirements of the 2011 regulations. The Respondent repaid the deposit at the termination of the tenancy. The respondent acknowledges the error. Both Parties ask me to dispose of this application on the agreed facts

8. The Applicant asked me to make a payment order. The purpose of the order is to punish the respondent, not to enrich the applicant. The applicant has not suffered any loss. The respondent acknowledges the error and describes the omission as "wrong".

9. The purpose of the order is to punish the respondent; to mark society's displeasure; to protect society and to ensure the enforcement of the 2011 regulations in the future. The respondent has learnt from this experience and is not likely to ignore the 2011 regulations again.

10. The appropriate level of payment order is £75.

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent for payment to the applicant of Seventy-five pounds (£75.00) within 14 days of service of this order.

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.

Mr Paul Doyle

Legal Member

12 June 2019