

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 Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011

Chamber Ref: FTS/HPC/PR/19/1225

Re: Property at 26 The Bowling Green, Edinburgh, EH6 5RW (“the Property”)

Parties:

Ms Maria Montanes Rodriguez, 124/12 Restalrig Road South, Edinburgh, EH7 6JA (“the Applicant”)

Ms Mary Christiansen, 10 (2F2) Murrayfield Place, Edinburgh, EH12 6AA (“the Respondent”)

Tribunal Members:

Colin Dunipace (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order should be made by the Respondent in favour of the Applicant in the sum of One Thousand One Hundred Pounds (£1,100).

This matter called as a Case Management Discussion in George House, 126 George Street, Edinburgh, EH2 4HH on 2 August 2019. In attendance were the Appellant’s representative, Ms Eilidh McIvor, and the Respondent, Ms Mary Christiansen.

The background to this Application related to a tenancy agreement between the parties in respect of the subjects at 26, The Bowling Green, Edinburgh, EH6 5RW entered into between the parties on 4 March 2018. As a condition of this tenancy agreement the Applicant required to pay a deposit of £1,100 to the Respondent, and that this deposit was to be paid into the MyDeposits Scotland Scheme. It is a matter of agreement between the parties that this deposit was paid by the Applicant in two instalments on 4 March 2018 and 4 April 2018 (and not 4 March 2017 and 4 April 2017 as stated in the Application).

Further it is a matter of agreement between the parties that the Respondent did not lodge this deposit with the aforementioned scheme, nor indeed with any approved deposit scheme within 30 days, and in fact was not lodged at all within an approved scheme during the currency of the tenancy.

Having heard from the Applicant's representative, I noted that the Applicant was seeking the full award on the basis that there had been ongoing issues with the tenancy and that the deposit had not been paid into an approved scheme at all during this tenancy.

The Respondent thereafter advised that she accepted that she had not paid the deposit into an approved scheme, but that this had been due to an oversight on her part. The Respondent indicated that this had been a difficult tenancy and that she felt that there had been issues which had cost her money during the tenancy. The Respondent also made reference to a letter from her GP dated 22 July 2019 which had been lodged with the Tribunal. Having heard from the Respondent I fully accepted that the failure to pay the deposit into an approved scheme was an oversight on the part of the Respondent. I also noted that the Respondent had paid the deposit back to the Applicant at the end of the tenancy within a very short period of time upon request.

Findings in Fact

- The parties entered into a lease agreement in respect of the property at 26, The Bowling Green, Edinburgh, EH6 5RW on 4 March 2018. As a condition of this lease the Applicant paid the sum of £1,100 by way of deposit in two instalments on 4 March and 4 April 2018.
- This lease required the Respondent to lodge the aforementioned deposit within 30 days with MyDeposit Scotland within 30 days.
- The deposit was not lodged with the aforementioned scheme, nor indeed with any other approved scheme.

Decision

Having heard from the parties, and having noted that the factual matters were not in dispute I determined that there was no requirement for a full hearing in the present case. It was accepted that the deposit had been paid by the Applicant, and also that the Respondent had not paid this sum into an approved scheme. I accordingly determined that an Order was accordingly appropriate.

Having heard from the parties I note that the failure to pay the deposit into an approved scheme was an oversight on the part of the Respondent, and that the deposit had in fact been returned to the Applicant very shortly after it had been requested. In these circumstances I have determined that the appropriate Order would be equivalent to deposit sum paid by the Applicant, and

accordingly have determined that an Order should be made in the sum of £1,100.

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.

C Dunipace

Legal Member



Date

2/8/19