

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/18/2518

Re: Property at 27 Pusey Place, Peterhead, Aberdeen, AB42 2ZA (“the Property”)

Parties:

Miss Sharon Anderson, 33 Braehead Crescent, Peterhead, Aberdeenshire, AB42 1EG (“the Applicant”)

Mrs Ann Elyse Finnie, 25 Thompson Rd, Peterhead, Aberdeenshire, AB42 3JF (“the Respondent”)

Tribunal Members:

Mark Thorley (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

By application 15 September 2018 the Applicant applied to the Tribunal under Rule 103. The Applicant claimed that the tenancy deposit had not been paid in to an approved scheme. The Applicant acknowledged that the original deposit was £600 but there were rent arrears of £350 and that the remaining £250 was returned.

The Case Management Discussion (CMD)

At the CMD Mr Craig Wyness appeared on behalf of the applicant. There was no appearance by or on behalf of the Respondent.

The Applicant had already set out her case in writing in the application.

The Respondent had provided an email in which she acknowledged that the deposit had not been placed in a tenancy deposit scheme. The Respondent described herself as not being a “professional landlord”. The tenancy started in 2009 and the Respondent was unaware that the deposit had to be placed in a scheme believing it only applied to new tenancies.

Accordingly there was agreement that the tenancy deposit had not been placed in to the scheme.

Finding in fact

1The tenancy was created in 2009.

2 A deposit of £600 was paid.

3 The deposit was not placed in to a tenancy deposit scheme.

4 At the conclusion of the tenancy the Applicant was in rent arrears of £350.

5 The Respondent had repaid the sum of £250.

6 An order for the payment by the Respondent to the Applicant of £350 is made.

Reasons for Decision

The facts in the case were agreed by both parties in writing. The tenancy had begun before the Regulations came in to force. The Respondent is an “amateur landlord”. The deposit did not go in to an approved scheme.

The deposit was £600 but at the end of the tenancy there was £350 of arrears of rent. The respondent returned £250 to the Applicant.

The Tribunal ordered payment of the sum of £350 which would have made a total repayment to the Applicant of the full amount of the deposit but for the rent arrears.

The Tribunal noted that the tenancy had begun prior to the Regulations coming in to force and that the Respondent was an “amateur landlord”

Decision

The Respondent is required to pay to the Applicant the sum of £350

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.

Mark Thorley

Legal Member/Chair

26 February 2019

Date