

# Housing and Property Chamber First-tier Tribunal for Scotland



## **DECISION AND STATEMENT OF REASONS OF THE FIRST-TIER TRIBUNAL in the case**

**APPLICANT:** MISS KIMBERLY RONALD, 15F KING STREET,  
COATBRIDGE, ML5 3HY  
**RESPONDENT :** LETTING AIRDRIE LTD (LETS BY LOCATION), 83  
- 87 CADZOW STREET, HAMILTON, ML3 6DY  
**PROPERTY ADDRESS:** 9 LINCOLN COURT, COATBRIDGE, ML5  
3HY  
**CASE REFERENCE:** FTS/HPC/PR/18/0425

### **BACKGROUND**

1. On 15<sup>th</sup> February 2018 an application was received from the Applicant. The application was made under Rule 103 of the Schedule to The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("The 2017 Regulations") being an application for an order for payment when a landlord has not paid a deposit in to an approved scheme.
2. The Applicant submitted the following documents in support of the application:-
  - a) Copy lease dated 3 December 2016, between Suzanne Dobbie, c/o Location, 69 Graham Street, Airdrie, ML6 6DE and Drew Brian Shaw and Kimberly Anne Ronald. Drew Brian Shaw is designated as being the "Lead Tenant" within the lease;
  - b) Copy e mails from the three approved tenancy deposit schemes confirming the deposit had not been paid in to a scheme;
  - c) E mail dated 21<sup>st</sup> February 2018 confirming deposit had been repaid.

## **DECISION**

3. The legal member considered the application in terms of Rule 8 of the Schedule to the 2017 Regulations. That Rule provides:-

### **Rejection of application**

**8.—(1)** The Chamber President or another member of the First-tier Tribunal under the delegated powers of the Chamber President, must reject an application if—

- (a) they consider that the application is frivolous or vexatious;
- (b) the dispute to which the application relates has been resolved;
- (c) they have good reason to believe that it would not be appropriate to accept the application;
- (d) they consider that the application is being made for a purpose other than a purpose specified in the application; or
- (e) the applicant has previously made an identical or substantially similar application and in the opinion of the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, there has been no significant change in any material considerations since the identical or substantially similar application was determined.

(2) Where the Chamber President, or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, makes a decision under paragraph (1) to reject an application the First-tier Tribunal must notify the applicant and the notification must state the reason for the decision.

4. After consideration of the application and other documents submitted in support of it, the Legal Member considers that the application should be rejected on the basis that it would not be appropriate to accept the application in accordance with Rule 8 (1)(c) .

## **REASONS FOR DECISION**

5. The Tenancy Deposit Scheme (Scotland) Regulations 2011 provide as follows:-

**3.(1)** A landlord who has received a tenancy deposit in connection with a relevant tenancy must, within 30 working days of the beginning of the tenancy—

- (a) pay the deposit to the scheme administrator of an approved scheme; and

- (b) provide the tenant with the information required under regulation 42.
- (2) The landlord must ensure that any tenancy deposit paid in connection with a relevant tenancy is held by an approved scheme from the date it is first paid to a tenancy deposit scheme under paragraph (1)(a) until it is repaid in accordance with these Regulations following the end of the tenancy.
- (3) A “relevant tenancy” for the purposes of paragraphs (1) and (2) means any tenancy or occupancy arrangement—
  - (a) in respect of which the landlord is a relevant person; and
  - (b) by virtue of which a house is occupied by an unconnected person, unless the use of the house is of a type described in section 83(6) (application for registration) of the 2004 Act.
- (4) In this regulation, the expressions “relevant person” and “unconnected person” have the meanings conferred by section 83(8) of the 2004 Act.

9.(1) A tenant who has paid a tenancy deposit may apply to the sheriff for an order under regulation 10 where the landlord did not comply with any duty in regulation 3 in respect of that tenancy deposit.

(2) An application under paragraph (1) must be made by summary application and must be made no later than 3 months after the tenancy has ended.

10. If satisfied that the landlord did not comply with any duty in regulation 3 the sheriff—

(a) must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit; and

(b) may, as the sheriff considers appropriate in the circumstances of the application, order the landlord to—

(i) pay the tenancy deposit to an approved scheme; or

(ii) provide the tenant with the information required under regulation 42.

References to “the sheriff” should now be read as referring to the First Tier Tribunal for Scotland.

6. The obligation to pay a deposit in to an approved scheme falls upon the landlord. The landlord is Suzanne Dobbie. The Respondent in the application is stated to be Letting Airdrie Ltd (Lets by Location). The respondents are not the landlord of the property.
7. The application proceeds in the sole name of Miss Kimberly Ronald. The lease designates the tenants as Drew Brian Shaw and Kimberly Anne Ronald. The lease designates Drew Brian Shaw as the lead tenant. No application has been received from him, nor any correspondence confirming he knows of or consents to the application in the name of Kimberly Ronald alone.

## **WHAT YOU SHOULD DO NOW**

If you accept the legal member's decision, there is no need to reply.

If you disagree with this decision:-

An applicant aggrieved by the decision of the Chamber President or any Legal Member acting under delegated powers, 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. Information about the appeal procedure can be forwarded to you on request.

✓ Crawford

Mr Virgil Crawford  
Legal Member  
12<sup>th</sup> March 2018