



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

Chamber Ref: FTS/HPC/PR/18/2336

Re: Property at 16 Tennis Road, Carnoustie, Angus, DD7 6HH ("the Property")

Parties:

Mrs Louise Tyrrell, 12 Elizabeth Crescent, Carnoustie, DD7 6HP ("the Applicant")

Mr Malcolm Bruce, 145a Balgillo Road, Broughty Ferry, DD5 3ED ("the Respondent")

Tribunal Members:

Valerie Bremner (Legal Member)

Decision

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

This is an application under the Tenancy Deposit Schemes (Scotland) Regulations 2011 to determine whether a landlord failed to pay a tenancy deposit into an approved scheme.

Both the Applicant and the Respondent attended the Case Management Discussion and the Respondent was supported by Mrs Anne Crabb.

The Tribunal had sight of the application, various emails and text messages and electronic bank records. The Tribunal also had sight of emails from the Deposit Scheme providers regarding this deposit.

Findings in Fact

The parties agreed that the Respondent had rented the Property to the Applicant and her family between December 2013 and August 2018.

There was no dispute that the rent was £450 per month and a deposit of £450 was paid by the Applicant before moving into the Property.

There was no dispute that the deposit had not been paid in to an approved scheme by the Respondent. This was confirmed by emails from the Deposit Scheme providers.

There was no dispute that this tenancy was covered by the Regulations and indeed it appeared to be a straightforward tenancy agreement whereby unconnected parties agreed that the Applicant and her family could live within the Respondent's property in exchange for rent. The Respondent did not live there during the tenancy. A tenancy agreement appeared to have been signed but the Applicant indicated that she had not received a copy.

The Respondent indicated that he had been ignorant of the Regulations and was not a landlord of other properties, this being the only one he had ever leased. The property was now for sale. He was not registered as a landlord and appeared to have arrived at this situation through his own ignorance of the law. He apologised for the situation which had arisen.

In deciding what sanction to impose the Tribunal took into account the length of time that the deposit has been unprotected, the fact that the Respondent had been an "amateur" landlord who appeared to have proceeded without advice, the fact that he had only rented out this property and no others, together with the fact that he was candid regarding the situation and had apologised.

Reasons for Decision

The Tribunal found that the Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 had been breached by the Respondent in respect of the failure to pay a tenancy deposit of £450 paid to him by the Applicant in respect of the Property into an approved scheme and a sanction was therefore required.

Decision

The Tribunal decided that a sum of £ 1000 should be paid by the Respondent to the Applicant in respect of the breach of the Regulations.

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.

V Bremner

Legal Member/Chair

25 / 1 / 19

Date