



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 (Regulations)

Chamber Ref: FTS/HPC/PR/18/2421

Re: Property at 2F1, 1 Graham Street, Edinburgh, EH6 5QN (“the Property”)

Parties:

Mr Daniel Lane, 60 Pebble Beach Blvd, Meadow Springs, West Australia, Australia, 6210, Australia (“the Applicant”)

CMC Property Edinburgh, Mr Frank Tokarz, 6B New Mart Road, Edinburgh, EH14 1RL; Per 6b (Unit 1-2), New Mart Road, Edinburgh, EH14 1RL (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that Mr Frank Tokarz pay the sum of £1,426.50 to the Applicant.

Background

This is an application under Regulation 9 for payment in respect of the landlord’s failure to protect the deposit.

The application was received on 10 September 2018 along with the following documents:

1. Tenancy Agreement dated 1 June 2017;
2. Emails from tenancy deposit schemes;
3. Confirmation of payment of deposit;
4. Email correspondence with CMC.

Case Management Discussion (CMD)

The case called for a CMD on 7 January 2019. It had been continued to that date after amendment to include Frank Tokarz as a Respondent.

The Applicant appeared and was unrepresented. Neither Respondent appeared or was represented. The Tribunal was satisfied that service had been made by Sheriff Officer on both Respondents of the notification of the CMD.

The Applicant advised that he had never received repayment of the deposit.

The Tribunal considered matters and in so far as material made the following findings in fact:

1. The Parties entered in to a lease dated 1 June 2017;
2. The Applicant paid a deposit of £475.50 on 19 May 2017;
3. The deposit was not protected during the duration of the tenancy which ended on 31 July 2018;
4. Mr Tokarz was the landlord.

Reasons and Decision

The Tribunal were satisfied that notification of the proceedings had been made on all parties. The Tribunal were also satisfied that the deposit had been paid and been unprotected for the duration of the tenancy. The Tribunal considered that it was fair and reasonable to award payment in the sum of 3 times the deposit to the Applicant.

The Tribunal had due regard to the overriding objective and the interests of justice in making this award.

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.

A Strain

Legal Member/Chair

Date

7 January 2019