



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Regulation 10 of the Tenancy Deposit
Schemes (Scotland) Regulations 2011**

Chamber Ref: FTS/HPC/PR/18/2577

**Re: Property at SOUTH FACING, 3/4 Gifford Park, Edinburgh, EH8 9NF (“the
Property”)**

Parties:

**Miss Zirui He, 57/3 East Crosscauseway, Edinburgh, EH8 9HG (“the
Applicant”)**

Mr Xiping Wu, 132/6 Pleasance, Edinburgh, EH8 9TL (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member)

Decision (in absence of the Applicant)

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

- Background

This is an application for an order under Regulation 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (‘the Regulations’. References hereafter are to the Regulations.) The case called for a case management discussion at 11:30am on 22 February 2019. The Applicant was not present or represented. The Respondent was not present, but was represented by his wife, Ms Shufen Liu.

- Findings in Fact

1. The Respondent let the Property to the Applicant under a tenancy which constituted a relevant tenancy agreement in terms of Regulation 3. The tenancy commenced on 26 June 2018.
2. The Respondent was due to return £438 to a previous tenant. Due to complications in the Applicant securing a UK bank account, it was agreed

between the parties and the previous tenant that the Applicant would pay the £438 to the previous tenant, as her deposit. The tenancy came to an end on 28 July 2018. The Respondent paid the Applicant the sum of £438 on 2 August 2018.

3. The Respondent did not pay the deposit to the scheme administrator of an approved scheme, or provide the Applicant with the information required by Regulation 42.
4. This application was raised on 1 October 2018.

- Reasons for Decision

5. Regulation 3 requires a landlord who has received a tenancy deposit in connection with a relevant tenancy to pay it to the scheme administrator of an approved scheme, and provide the Applicant with information, as required by Regulation 42, within 30 working days of the beginning of the tenancy.
6. The Respondent was in receipt of the deposit of £438. In effect, it was paid by the previous tenant on the Applicant's behalf, once it had been agreed among the three parties that they would proceed as outlined above at para.2. The duty to carry out the actions required by Regulation 3 within 30 working days of the commencement of the tenancy was therefore triggered.
7. However, before the time-limit for compliance expired, the tenancy came to an end and the Respondent returned the full amount paid in deposit. It would be absurd to interpret Regulation 3 as continuing to apply in such circumstances. That would require a landlord, rather than returning the full deposit, instead to pay it to a scheme administrator and then immediately trigger the procedure for repayment. This would only delay the return of the deposit to the tenant, to no end.
8. There is therefore no breach of the Regulations and the application should be refused.

- Decision

Application refused.

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.

N Young

Legal Member/Chair

22 FEBRUARY 2019

Date