



**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/19/3583

**Re: Property at 128 Garthdee Road, Garthdee, Aberdeen, AB10 7AR (“the
Property”)**

Parties:

**Mr Jared Cameron, 15 Grampian Road, Torry, Aberdeen, AB11 8ED (“the
Applicant”)**

Mr Andrew Mahoney, Unknown, Unknown (“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 an order for payment by the Respondent to the
Applicant of the sum of £750 be made.**

Background

**The applicant applied to the First-tier Tribunal for Scotland in terms of Rule 103
of the Tribunal Rules. The application was dated 5 November 2019.**

**Accompanying the application was a copy of the original Tenancy Agreement,
the updated Tenancy Agreement, correspondence with the respondent and
email correspondence with Safe Deposit Scotland and My Deposit Scotland.**

**The applicant set out that his deposit of £330 had not been protected during any
part of his tenancy.**

**The application was acknowledged by the First Tier Tribunal on 8 November
2019 and accepted on the same date.**

A case management discussion was convened by way of conference call for 8 January 2020. That case management discussion was cancelled as service of documentation on the respondent at the address stated in the application could not be completed.

A further case management discussion was to be held on 27 January 2020.

On 27 January 2020 the case management discussion was adjourned as an issue was raised as to service. Process servers had served and attended the address provided for the respondent but were advised that he was not there. A further case management discussion was scheduled for 9 March 2020.

Process servers thereafter attempted further service of the proceedings on the respondent to be advised that the address for the respondent was no longer the respondent's address. Thereafter proceedings were served by way of advertisement on the Chamber website.

Case Management Discussion

At the case management discussion held on 30 July the applicant was on the tele-conference call.

The Respondent did not attend on the tele-conference call nor had any written representations been made.

Service of the notice of proceedings was made by way of advertisement.

Findings in Fact

1. The applicant and the respondent entered into a Tenancy Agreement dated 18 September 2016 in respect of the property at 128 Garthdee Road, Aberdeen.
2. The applicant made a deposit of the sum of £330.
3. By undated letter the respondent allowed a notice to the applicant to terminate the tenancy on 9 August 2019.
4. The respondent sent back to the applicant the sum of £130 having deducted sums for the cost of repairs to the property.
5. The deposit was not protected in any of the deposit protection schemes during the currency of the tenancy.

Reasons for Decision

The applicant had showed by both the documentation he had lodged and also in his oral evidence that he had paid out a tenancy deposit of £330. He had established that none of the schemes that provided protection had received that

deposit. Accordingly his deposit was unprotected for the entire period of his tenancy which was 18 September 2016 to 9 August 2019, a period just short of three months.

The applicant had received back from the respondent the sum of £130. Deductions had been made by the respondent. If the deposit had been within an approved scheme then that could have been subject to determination by the scheme itself.

The respondent had not lodged any representations. Service of the notice had taken place by advertisement.

The Tribunal took account of the length of time in which the deposit had been unprotected. No mitigating factors had been placed before the Tribunal by the respondent.

The deposit had been returned to the extent of £130 and shortly after the end of the tenancy. There were no other mitigating factors.

Having regard to such factors having been put forward by the applicant the Tribunal ordered that the respondent pay the sum of £750.

Decision

The Tribunal ordered that the respondent pay to the applicant a sum of £750.

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.

Legal Member/Chair
Mark Thorley

Date
30/07/2020