



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

Chamber Ref: FTS/HPC/PR/20/0304

Re: Property at 50 Glen Doll Road, Neilston, G78 3QP (“the Property”)

Parties:

Miss Claire Morris, 1/1 7 Sloy Street, Possilpark, Glasgow, G22 5DZ (“the Applicant”)

Mr Joni Segal, 165 Gemini Park, Borehamwood, Hertfordshire, WD6 1BZ (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) grants an order against the Respondent for payment to the Applicant in the sum of One Thousand and Fifty Pounds (£1,050)

Introduction

This is an application under The Tenancy Deposit Schemes (Scotland) Regulations 2011.

Service of the proceedings was lawfully served on the Respondent on 24 February 2020. The Respondent has not lodged any response or written submissions. He has failed to participate in the Case Management Discussions on 14 July and 6 August 2020. He received notice of these hearings. There have no barriers to his participation. The Applicant has participated in both hearings.

The Applicant is the former tenant. The Respondent is the former landlord. The relevant property is 50 Glen Doll Road, Neilston, G78 3QP

In advance of the first CMD on 14 July 2020 the Applicant had obtained telephone confirmation from the three deposit schemes in operation in Scotland that the Respondent did not lodge her deposit with their organisations.

The Applicant required to obtain written confirmation from all three schemes to enable an Order to be made under the Regulations. Matters were continued to a further CMD on 6 August 2020.

The Applicant subsequently lodged e mails from :

1. Safedepositsscotland dated 15 July 2020
2. Mydepositsscotland dated 16 July 2020
3. Lettingprotectionscotland 27 July 2020

Findings and Reasons

The parties entered in to a lease arrangement for the property commencing on 9 April 2019. The Respondent sought to set this up as a Short Assured Tenancy. This was not legally possible as such tenancies could not be commenced after 30 November 2017. The tenancy agreement is therefore a Private Residential Tenancy.

The Applicant paid a £350 deposit. Under the Regulations the Respondent had a legal duty to pay the deposit into an approved scheme.

The Respondent is not a registered landlord.

The Applicant gave 28 days' notice and removed from the property on 15 December 2019.

The Applicant requested return of her deposit of £350. This has not been returned. The Respondent has ignored all of the Applicant's communications.

The Tribunal found the submissions of the Applicant and the documentary evidence from the three deposit schemes credible, reliable and consistent. The Tribunal attached weight to the totality of this evidence.

All three tenancy deposit schemes have confirmed that the Applicant's deposit has not been lodged with their schemes. The Tribunal finds that the Respondent has breached Regulation 3 by failing to pay the Applicant's deposit into an approved scheme.

In terms of Regulation 10 the Tribunal must make an order against the Respondent for an amount not exceeding three times the amount of the deposit.

There are no mitigating circumstances in this case. The Respondent is not a registered landlord. He had breached the tenancy deposit regulations. He has not cooperated with this Tribunal process at all. He has not provided any explanation regarding his actions. The Tribunal finds that he is an unscrupulous landlord and has flagrantly breached the Regulations. In these circumstances the Tribunal finds that it is fair and proportionate to make an order in the maximum sum of three times the deposit of £350 which equals £1,050. An order for payment against the Respondent is made in this sum.

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.

Richard Mill

Legal Member/Chair

Date 6 August 2020