



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under the Housing (Scotland) Act 2006 section 121 and Regulation 9 the Tenancy Deposit Schemes (Scotland) Regulations 2011

Chamber Ref: FTS/HPC/PR/21/0125

Re: Property at 124/6 Gorgie Road, Edinburgh, EH11 2NR (“the Property”)

Parties:

Miss Lauren Smith, Mr Myles Robertson, 53/6 Pitt Street, Edinburgh, EH6 4BZ (“the Applicant”)

The Lawrence Steven Partnership, 20 Ross Road, Edinburgh, EH16 5QN (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Landlord is in breach of their obligations in terms of Regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“Regulation 3”). The Respondent shall make payment to the Applicant in the sum of EIGHT HUNDRED POUNDS (£800) STIRLING

Background

1. The Tribunal received an application from the Applicant in terms of Rule 103 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Rules 2017 signed on 24th December 2020.
2. The deposit paid was £800, paid on 14th August 2018.

The Case Management Discussion (“CMD”)

3. A CMD was held on 23rd March 2021 at 11.30 am by teleconferencing. The Applicants were both present. Mr Colin Lawrence was present and represented the Respondent.
4. Mr Lawrence confirmed the deposit of £800 had been received on 14th August 2018. He also confirmed that this was not lodged into a deposit scheme until October 2020. This had been due to an error on the part of the Respondents who had personal matters which had meant that they had forgotten to lodge the deposit in an approved scheme. The deposit had been put into the Respondent's own back account where it had remained untouched until it had been put in a deposit scheme. Mr Lawrence confirmed that he now has Clyde Property instructed as letting agents. They will pay the deposit to him to lodge straight away for future rentals of the Property. This new process is to prevent this occurring again.
5. The deposit has been released from the deposit scheme save for 1 pence which was retained. While Mr Lawrence was aggrieved at this he accepted that this hearing was not the forum to discuss any other tenancy issues. He will contact the Housing and Property Chamber should he wish to lodge any further applications for other matters. It was also noted that he was aggrieved that the amount of the penalty is paid directly to the Applicants and that there was no fee for lodging such an application. It was explained that this was not a matter for the Tribunal.
6. The Applicants disputed what Mr Lawrence had stated about the other tenancy issues. They accepted that this hearing was regarding the lodging of a deposit in an approved scheme and was not the forum to discuss other tenancy matters further.
7. The Tribunal considered that a one times penalty was appropriate given that Mr Lawrence had accepted that the deposit was not lodged in an approved scheme within 30 days of the tenancy beginning. Further Mr Lawrence has instructed a letting agent to assist him to ensure that it will not happen again.
8. Accordingly the Tribunal finds in fact:
 - a. The deposit paid was £800, paid on 14th August 2018.
 - b. The start date of the tenancy was 14th August 2018.
 - c. The end date of the tenancy was 22nd November 2020.
 - d. The Respondents had failed to lodge the deposit due to an error on their part.

Decision

9. The Respondent has a duty under Regulation 3 to place the deposit in an approved scheme within the specified time but failed to do so. The Respondent has since instructed a property agent. The deposit was lodged in an approved scheme on 30th October 2020. The Tribunal decided that a fair, just and

proportionate sanction would be to order the Respondent to pay the Applicants one times the amount of the deposit (£800).

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.

Gabrielle Miller

23rd March 2021

Legal Member/Chair

Date