

**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/21/2820**

**Re: Property at Niverdene, Hill Avenue, Wick, Caithness, KW1 4DP (“the Property”)**

**Parties:**

**Dr Luay Almilah, 4 Robert Street, Wick, Caithness, North Lanarkshire, KW1 4DQ (“the Applicant”)**

**Mrs Vivien MacKay, 3 Abbey Park, Halkirk, KW12 6WD (“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 her 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 £850 (EIGHT HUNDRED AND FIFTY POUNDS) 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 which was signed on 10<sup>th</sup> November 2021. The Application detailed that a deposit of £850 was paid at the start of the tenancy.
2. On 22<sup>nd</sup> December 2021, all parties were written to with the date for the Case Management Discussion (“CMD”) of 27<sup>th</sup> January 2022 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 12<sup>th</sup> January 2022.

## **The Case Management Discussion**

3. A CMD was held on 27<sup>th</sup> January 2022 at 2pm by teleconferencing. Both the Applicant and the Respondent were present. Both represented themselves.
4. The Applicant noted that the Respondent was being investigated for not being a registered landlord. The Respondent said that she had now registered. Her application had been accepted and was now being processed. She had misunderstood what she had to do. She believed that being registered for her other property was sufficient not realising that she had to register in respect of each property. She has now tried to remedy this by applying to be registered for this property.
5. The Respondent admitted that she did not lodge the deposit. She has one other property and has never taken a deposit before. She did not read the lease fully and did not understand her obligations. She is now aware that she must put a deposit in an approved scheme within 30 days of the start of the lease. She has not let out the Property since the Respondent left though it is her intention to do so on finding suitable tenants. She will ensure that the deposit is lodged in an approved scheme within 30 days of the start of any new tenancy. The Respondent is a member of the Scottish Association of Landlords and will contact them to make sure that she is meeting all her legal obligations as a landlord.

## Findings and reason for decision

6. A Private Rented Tenancy Agreement commenced 22<sup>nd</sup> January 2021. The tenancy ended on 28<sup>th</sup> October 2021.
7. The Applicant paid a deposit of £850 on 22<sup>nd</sup> January 2021.
8. The Applicant admitted that she did not meet her duties in terms of Regulation 3 by putting the deposit in an approved deposit scheme within 30 days of the start of the tenancy.

## 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 is now fully aware of her responsibilities. She is looking to take further advice to ensure that she is meeting all her legal obligations as a landlord. This was the first deposit that she has ever taken. The Applicant should have known what her legal obligations were in terms of the deposit. The Tribunal recognised that this was her first deposit taken, that she had admitted the breach and that she is to get advice on all of her legal obligations as a landlord. The Tribunal decided that a fair, just and proportionate sanction would be to order the Respondent to pay the Applicant one times the amount of the deposit (£850.00).

## **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**

Gabrielle Miller

27<sup>th</sup> January 2022

---

**Legal Member/Chair**

---

**Date**