



**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/20/0950**

**Re: Property at 263/4 Dalkeith Road, Edinburgh, EH16 5JT (“the Property”)**

**Parties:**

**Miss Heather Galbraith, Miss Emma Gilliland, Miss Danielle McGuinness, Miss Amy Sneddon, 263/4 Dalkeith Road, Edinburgh, EH16 5JT (“the Applicant”)**

**Huggermugger Ltd, Harbour Trust Co Limited, PO Box 897GT, 1 Capital Place, George Town, Grand Cayman Cayman Islands, Cayman Islands (“the Respondent”)**

**Tribunal Members:**

**John McHugh (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent has failed to comply with its duty under Regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 and should be ordered to pay the Applicants the sum of £500.**

**Background**

The Applicants were the tenant and the Respondent the landlord under a private residential tenancy of the Property dated 6 December 2019.

The Applicants complain that the Respondent failed to place their deposit in an approved scheme in accordance with its obligations under Regulation 3 of the 2011 Regulations.

## **The Case Management Discussion**

A Case Management Discussion ("CMD") took place by telephone conference on 30 September 2020. Two of the Applicants, Heather Galbraith and Emma Gilliland, were present. They confirmed that the other two Applicants did not intend to appear (and Ms Sneddon had confirmed that fact by email). The Respondent was neither present nor represented.

A previous CMD had taken place on 13 August 2020. The Respondent had not appeared or been represented. The Tribunal had continued the case in order to satisfy itself that service of the application had been effected upon the Respondent. The Tribunal also made a Direction requiring the Respondent to produce certain information to the Tribunal. The Respondent has not done so. There has been no contact from the Respondent at any stage of the proceedings.

Both the Tribunal's letter of 19 August 2020 enclosing notes of the previous CMD and the Direction and the Tribunal's letter of 1 September 2020 advising the date of the CMD on 30 September 2020 have been sent to the Respondent by international recorded delivery post. The Tribunal accordingly considers that the requirements of Rule 6 of the Tribunal Procedure Rules have been complied with.

## **Findings in Fact**

The Applicants were the tenant and the Respondent the landlord under a private residential tenancy dated 6 December 2019.

The Applicants paid to the Respondent a deposit of £2542.50 on 29 November 2019.

The tenancy began on 17 December 2019.

The deposit was placed in an approved scheme on 7 February 2020

The deposit should have been placed in an approved scheme within 30 working days of the beginning of the tenancy ie by 3 February 2020.

The tenancy ended in May 2020.

## **Reasons for Decision**

The Applicants have produced an email from SafeDeposits Scotland confirming that the deposit was placed with them on 7 February 2020.

The Respondent is in breach of its duty under Regulation 3 to place the deposit in an approved scheme within 30 working days of commencement of the tenancy on 17 December 2019, which would have been 3 February 2020.

Having established that there has been a breach of Regulation 3, the Tribunal is obliged in terms of Regulation 10 to make an order requiring the Respondent to make a payment to the Applicants. In the Respondent's favour is that: the deposit was placed in an approved scheme apparently without any third party prompting; the deposit remained unprotected for a very short time; and that the Applicants have suffered no actual detriment. The Respondent has failed to take any part in these proceedings and has offered no explanation for its breach of Regulation 3.

The Tribunal regards this case as being towards the less serious end of the scale and finds an award of £500 to be appropriate.

### **Decision**

**The Respondent should be ordered to pay the Applicants the sum of £500.**

### **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.**

<b>John McHugh</b> _____	<b>30 September 2020</b> _____
<b>Legal Member/Chair</b>	<b>Date</b>