



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/20/0148

Re: Property at 31 Barassie Street, Bottom Left Flat, Troon, KA10 6LX (“the Property”)

Parties:

Miss Alison Kerr, 3 Burnfoot Way, Troon, Ayrshire (“the Applicant”)

ABC Accommodation Limited, 8 Hunter Crescent, Troon, Ayrshire, KA10 7AH (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

- Background

This is an application for an order for payment on the basis of an alleged failure of the Respondent to carry out its duties in terms of Regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (‘the Regulations’). It called for a case management discussion by teleconference at 2pm on 22 July 2020. The Applicant was on the line in person. The Respondent was represented by Mr Steven Evans, a director of the company.

- Findings in Fact

The relevant facts were not in dispute:

1. The Applicant leased the Property from the Respondent in terms of an assured tenancy, commencing on 1 March 2017 and terminating on 27 October 2019.
2. In terms of that tenancy agreement, the Applicant paid the Respondent a deposit of £420. The terms of the agreement indicated that the deposit would be paid into an approved scheme.
3. Due to an oversight, the Respondent failed to pay the deposit into an approved scheme, or to complete any of the other actions required of it in terms of Regulation 3 of the Regulations.
4. At the termination of the tenancy, the Applicant stated in a text to the Respondent that she was not expecting her deposit back. This application was made on 15 January 2020.

- Reasons for Decision

5. The Tribunal accepted that the Respondent was aware of its duties in terms of the Regulations, but had failed to observe them due to a mistake. It also noted that the Applicant had stated that she did not expect to receive her deposit at the termination of the tenancy. Although the Applicant indicated that she had made this statement due only to her anxiousness to leave the tenancy quickly, it was, on any reading of it, reasonable for the Respondent to assume that the matter was closed at that point.
6. Nonetheless, the duties in terms of Regulation 3 are important and the wording of the Regulation is clear that any breach found by the Tribunal must give rise to an order for payment of a sanction. In the circumstances, the Tribunal determined that an award of one and one half times the deposit (£630) was appropriate. This reflects the need to balance the relatively low level of culpability of the part of the Respondent, with the requirement that there should be consequences for landlords who fail to observe the duties incumbent on them.

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.

N. Y

Legal Member/Chair

22 July 2020

Date