

Housing and Property Chamber
First-tier Tribunal for Scotland



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

Chamber Ref: FTS/HPC/PR/18/1677

Re: Property at 112 6 Clarendon Street, Glasgow, G20 7QD ("the Property")

Parties:

Miss Evgenia Sarrou, 62 Blessa Street, Papagos, Attiki, 156 69, Greece ("the Applicant")

Mr Sanjay Sharma, 4 Greenside Place, Bearsden, G61 4RY ("the Respondent")

Tribunal Members:

Lesley Ward (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the respondent has failed to comply with any of the duties contained in regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 and makes an order for the respondent to pay the sum of five hundred pounds (£500) to the applicant in terms of Regulation 9 of those regulations.

This is an application in terms of Rule 103 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations "the Rules" for payment where a landlord has not paid a tenancy deposit into an approved scheme.

The application was made by Dr Shahzya Chaudhury as a representative of Miss Avangelina Sarroll on the 5 June 2018.

The tribunal had before it the following copy documents:

1. Application dated 30 May 2018 and received by the Tribunal on 5 July 2018.
2. Tenancy agreement between Ms Sarroll and Mr Sanjay Sharma dated 28 May 2015.
3. Letter from Glasgow City Council dated 29 May 2018.
4. Email from Miss Sarroll to respondent dated 23 May 2018.
5. Sheriff Officer's execution of service dated 21 August 2018.

The respondent did not appear and was not represented. Dr Chaudhury appeared on behalf of the applicant. The tribunal was satisfied that the respondent received appropriate notification of the case management discussion in terms of Rule 24.

Dr Chaudhury stated that the deposit has still not been returned and other flat mates of the applicant who also had a lease with the respondent have not had their deposit back. The money was not lodged in a scheme and the landlord registration details were not given. She was unable to advise if the respondent has any other properties. She exhibited copy messages passing between the applicant and respondent in which the respondent states he is waiting on the bank details to enable him to return the deposit. The bank details were provided. There is nothing to suggest that the respondent was seeking to hold onto any part of the deposit. The exchanges of messages exhibited suggested that the relationship between the parties was cordial at the point that the tenancy came to an end.

On the evidence available today and in the absence of any evidence to the contrary there has been a breach of regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations. The tribunal is satisfied that it has enough information to make a decision today and that the procedure has been fair.

Taking into account the case law and the need to proceed in a fair proportionate and just way the tribunal made an order for the respondent to pay the sum of £500 being twice deposit. The tribunal considered that given the deposit has still not been returned and other tenants have had this issue the matter is at the higher end of the scale of seriousness. There was however no evidence to suggest that the failure to lodge the deposit was wilful or that the landlord has other properties.

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.

L Ward

Lesley A Ward Legal Member/Chair

Date 7 September 2018