



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/PR/19/3491

Re: Property at 2, 21 Viewcraig Gardens, Edinburgh, EH9 8UL (“the Property”)

Parties:

**Ms Marie-Louise Meiser, Amsterdamer Strasse, 19A, 13347, Berlin, Germany
 (“the Applicant”)**

Mr Alvydas Lotuzas, Address Unknown, Address Unknown (“the Respondent”)

Tribunal Members:

Andrew Upton (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Respondent is liable to make payment to the
Applicant in the sum of TWENTY POUNDS (£20.00) STERLING.**

FINDINGS IN FACT

1. The Applicant was the tenant, and the Respondent the landlord, of the Property under and in terms of a Private Residential Tenancy which commenced on 14 July 2019.
2. The Applicant made payment to the Respondent of a tenancy deposit of £500.
3. The rent payable under the tenancy was £120 per week.
4. The tenancy deposit was not lodged in an approved Tenancy Deposit Scheme.
5. On or around 30 August 2019, the Applicant vacated the Property, without any intention of returning, due to concerns about her safety.

6. On 31 August 2019, the Applicant advised the Respondent by text message that she had moved out of the Property and would not be returning.
7. The Applicant did not make payment to the Respondent of any rent after her removal from the Property.

FINDINGS IN FACT AND LAW

1. On 31 August 2019, the Applicant gave notice to the Respondent of her intention to leave the Property in terms of section 48 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. In terms of section 49 of the Private Housing (Tenancies) (Scotland) Act 2016, the minimum period of notice that the Applicant required to give to the Respondent was twenty-eight days.
3. The Respondent is liable to make payment to the Applicant of the total sum of £20.00, being her tenancy deposit under deduction of four weeks' rent to cover the minimum period of notice she required to give.

STATEMENT OF REASONS

1. This application called before me for a Case Management Discussion on 22 September 2020 by teleconference. The Applicant personally took part in the call. The Respondent was neither present on the call or represented. Notice of the CMD had been properly served on him by advertisement on the Tribunal website.
2. This application previously called for a CMD on 17 July 2020. This Application was originally made under the Tenancy Deposit Scheme Regulations following the failure of the Respondent to lodge the deposit in an approved Tenancy Deposit Scheme. However, at the last CMD, the Applicant moved to amend the Application such that she only sought repayment of her tenancy deposit, rather than sanction under the Regulations. Given that the Respondent was quite evidently in flagrant breach of his obligations under the Regulations, that was perhaps a regrettable decision by the Applicant. However, the amendment was allowed and the case continued to today's CMD to allow notice of the amendment to be given to the Respondent.
3. In terms of Rule 2 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure, I must have regard to the overriding objective to deal with proceedings justly, including to avoid delay, and using the special expertise of the Tribunal, when making any decision. In terms of Rule 17, I may do anything at a CMD that I may do at a Hearing, including make a decision.

4. The Respondent has had an opportunity to object to the assertions made by the Applicant in the Application, but has chosen not to do so. On that basis, I found the following assertions made in the Application or in the written communications produced by the Applicant to be uncontested:-
 - a. The Applicant was the tenant, and the Respondent the landlord, of the Property under and in terms of a Private Residential Tenancy which commenced on 14 July 2019.
 - b. The Applicant made payment to the Respondent of a tenancy deposit of £500.
 - c. The rent payable under the tenancy was £120 per week.
 - d. The tenancy deposit was not lodged in an approved Tenancy Deposit Scheme.
 - e. On or around 30 August 2019, the Applicant vacated the Property, without any intention of returning, due to concerns about her safety.
 - f. On 31 August 2019, the Applicant advised the Respondent by text message that she had moved out of the Property and would not be returning.
 - g. The Applicant did not make payment to the Respondent of any rent after her removal from the Property.
5. In terms of sections 48 and 49 of the Private Housing (Tenancies) (Scotland) Act 2016, there is only one way by which a tenant may bring a Private Residential Tenancy to an end. That is by the giving of notice to the landlord of the tenant's intention to leave on a minimum period of 28 days.
6. It is evident in this case that the Applicant did not give 28 days' notice. It seems to me that she must, therefore, be bound to account to the Respondent for rent for the period of notice that she ought to have given.
7. Accordingly, it seems to me that the Respondent is bound to return the Applicant's deposit to her, but under deduction of rent that she ought to have paid for the minimum period of notice that she ought to have given. That is four weeks' rent at a rate of £120 per week. The total sum of rent due by the Applicant to the Respondent is £480. Therefore, I determined that the Respondent was under obligation to make payment to the Applicant in the total sum of £20.

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.

Andrew Upton

22 September 2020

Legal Member/Chair

Date