



**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/21/0309

Re: Property at 17 Hall Place, Galashiels, Selkirkshire, TD1 1PH (“the Property”)

Parties:

**Miss Christie Capstick, Mr Ryan Frater, 4A Roxburgh Street, Galashiels,
Selkirkshire, TD1 1PF (“the Applicant”)**

**Mr Alan Rome, Coillore, Muirhall Farm, Auchengray, Carnwarth, ML11 8GX
 (“the Respondent”)**

Tribunal Members:

Mark Thorley (Legal Member)

**Decision The First-tier Tribunal for Scotland (Housing and Property Chamber)
 (“the Tribunal”) determined that an order for payment by the Respondent to the
Applicant in the sum of £347.50 be made**

BACKGROUND

**The applicants applied to the first tier tribunal under rule 103 by application
dated 10th February 2021. Accompanying the application was the following
documents:**

- a) Copy tenancy agreement.**
- b) Email confirmation from Safety Deposit Scotland of a tenancy.**
- c) Receipt for rent and deposit.**
- d) Email confirmation of the end of the tenancy.**

**The application was accepted on 23rd February 2021. A case management
hearing was assigned for the 1st April 2021. No written representations were
received from the respondent.**

THE HEARING / CASE MANAGEMENT DISCUSSION

**At the Case Management Conference, the applicant attended, as did the
respondent, together also with Ms Borthwick from JB lettings Ltd.**

In the discussions that followed, the letting agent confirmed that the deposit of £695 had been received from the applicant on 29th October 2020. The deposit was not placed in a safe deposit scheme until 28th January 2021. The tenancy itself commenced on or about 29th October 2020 and ended on 12th January 2021. The deposit was not placed in a safe deposit scheme until after the end of the tenancy. The whole deposit had been returned. All of these facts were agreed.

FINDINGS IN FACT

1. The applicant and the respondent entered into a private residential tenancy agreement for the property at 17 Hall Place, Galashiels, TD1 1PH.
2. The private residential tenancy agreement was signed and dated on 28th and 29th October 2020.
3. On 29th October 2020, a payment of £1,190 was received by the respondent's agents JB Lettings Ltd which was made up of rent of £495 and a deposit of £695.
4. The tenancy ended on 12th January 2021.
5. The deposit was placed with Safety Deposit Scotland on 28th January 2021 after the conclusion of the tenancy.
6. The whole of the deposit was returned to the applicant.
7. The deposit should have been lodged within 30 days of the 29th October 2020.
8. An order for payment in the sum of £347.50 will be made.

REASONS FOR DECISION

There was no dispute as to the facts in the case. Both parties accepted that the tenancy commenced on or about 28th October 2020 and ended on 12th January 2021. Relatively speaking this was a short tenancy. The deposit should have been placed within a safe deposit scheme within 30 days of the 29th of October. It was not. It was not placed in a safe deposit scheme until 28th January 2021. Thereafter the whole of the deposit has been returned to the applicant. It was acknowledged that the respondent used a letting agent throughout. The amount ordered to be paid by the respondent amounted to one half of the deposit. The decision taken was based on the following factors.

- a) The shortness of the tenancy.
- b) That the deposit was outwith the scheme for approximately two months beyond when it should have been.
- c) The deposit was returned in full.

DECISION

The respondent to make payment to the applicant of the sum of £347.50

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.

Mark Thorley

1 April 2021

Legal Member/Chair

Date