

Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Regulations 9 and 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the Regulations”) and Rule 103 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”).

Chamber Ref: FTS/HPC/PR/22/3730

Re: Property at Flat 3/1 9 Ruthven Street, Glasgow, G12 9BY (“the Property”)

Parties: Miss Qianying Liu, 5floor, Sir Alwyn Williams Building,1, Lilybank Gardens Lane,Hillhead,Glasgow,G12 8FA (“the Applicant”)

Mr Mingming Tan and Zhao Yang, both residing at 288, Southside, St Johns Walk, Birmingham,B5 4TL (“the Respondents”)

Tribunal Members:

Karen Moore (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”), having found that the Respondents did not comply with Regulation 3 of the Regulations, determined that an Order for Payment in the sum of ONE THOUSAND FIVE HUNDRED POUNDS (£1,500.00) Sterling be granted.

1. By application received between 10 October 2022 and 31 October 2022 (“the Application”), the Applicant applied to the Tribunal for an Order in terms of Regulation 10 of Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the Regulations”).
2. The Application comprised a copy of a tenancy agreement between the Parties and another person as co-tenant with an entry date of 1 February 2022, copy correspondence and notes showing that a tenancy deposit of £500.00 had been paid by the Applicant to the co-tenant on 1 February 2022 as instructed by the Respondents, copy correspondence from all three approved schemes confirming that the tenancy deposit had not been lodged in accordance with the Regulations and screen shots showing repayment of the deposit in part by the Respondents to the Applicant. The Application was accepted by the Tribunal and a Case Management

Discussion (the “CMD”) was fixed for 10 February 2023 at 14.00 by telephone conference and intimated to the Parties.

3. Neither Party appeared at the CMD and so the Application was refused.
4. By email on 19 February 2023, the Applicant made an application to recall the refusal decision, which application was granted by the Tribunal and a fresh CMD was fixed and intimated to the Parties.

CMD

5. The CMD took place on 7 July 2023 at 10.00 by telephone conference by telephone. The Applicant took part and was not represented. The Respondents did not take part and were not represented. They did not submit written representations. Ms. Hansong Xia assisted as interpreter.
6. The Tribunal noted that from the Application that the Applicant had paid a tenancy deposit of £500.00 to the Respondents who had not paid the deposit into a statutory approved scheme, nor had they provided the Applicant with information on the deposit, all in terms of Regulations 3 and 42 of the Regulations. The Tribunal noted that there had been no response from the Respondents in respect of any part of the proceedings. The Tribunal advised that, therefore, the Tribunal was bound to make an Order in terms of Regulation 10. The Applicant stated that she is aware that the Respondents have several properties which they lease to students and that the students are at risk. The Applicant confirmed that she is still a student at Glasgow University.

Findings in Fact

7. From the Application and the CMD, the Tribunal made the following findings in fact: -
 - i) There had been a tenancy of the Property between the Parties at a monthly rent of £500.00;
 - ii) A tenancy deposit of £500.00 was paid by the Applicant to the Respondents;
 - iii) The tenancy deposit was not lodged with an approved scheme and no information on the deposit was provided to the Applicant by the Respondents and
 - iv) The Respondents are in breach of Regulation 3 of the Regulations.

Decision

8. Having made those findings, the Tribunal had regard to Regulation 10(a) of the Regulations which states that, if satisfied that the landlord did not comply with any duty in Regulation 3 the Tribunal must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit. The Tribunal consider the breach of Regulation 3 by the Respondents to be significant and at the extreme end of the penalty scale. The Tribunal proposed that the maximum amount be awarded to the Applicant.
9. The Tribunal then had regard to Rule 17(4) of the Rules which states that the Tribunal “may do anything at a case management discussionincluding making a decision” and so proceeded to make an Order for Payment in the sum of £1,500.00.

10. The Tribunal advised the Applicant that the Tribunal could not assist in enforcing the Order, but as the Applicant is still a student at Glasgow University, the Students' Union or the Law School legal clinic might be able to assist.

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.

Legal Member/Chair

7 July 2023
Date