



**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/18/1179

Re: Property at 165/3 Ferry Road, Edinburgh, EH6 4NJ (“the Property”)

Parties:

**Miss Krista McKenna, 5/4 Roseneath Street, Edinburgh, Midlothian, EH9 1JH
 (“the Applicant”)**

**Mr Jagsohan Singh, 88 Dudley Avenue, Edinburgh, Midlothian, EH6 4PW (“the
 Respondent”)**

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Applicant)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
 Tribunal”) determined that an order is granted against the Respondent(s) for
 ONE HUNDRED AND FIFTY POUNDS (£150) STERLING**

- Background

An application was made by the Applicant under Rule 103 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 dated 10 May 2018. Rule 103 refers to an order for payment where a landlord has not paid the deposit into an approved scheme.

- The Case Management Discussion

A Case Management Discussion first took place on 31 July 2018 and thereafter was adjourned to 31 August 2018 for the Landlord to provide written evidence that the deposit had been repaid to the tenant, and further thereafter for consideration to be given by the Tribunal regarding the landlord’s admitted breach of the Tenancy Deposit Schemes (Scotland) Regulations 2011.

The Applicant did not appear at the Case Management Discussion, nor was she represented. The Respondent appeared personally.

The Respondent provided evidence to the Tribunal of the deposit of £400 having been repaid in full to the tenant by bank transfer on 2 July 2018. The Respondent advised the Tribunal that the previous tenant's deposit had been lodged with Safe Deposits Scotland and he had failed to ensure that this was in turn secured under the new tenant's name upon transfer of tenancy. He submitted that this was basic human error.

- Findings in Fact
 1. The parties had entered into a Short Assured Tenancy under which a deposit of £400 had been paid by the Applicant.
 2. No deposit was lodged with an approved tenancy deposit scheme under the Applicant's name, by the Respondent
 3. The deposit of £400 had been repaid in full to the Applicant following termination of the tenancy
- Reasons for Decision

The Tribunal was satisfied that the Respondent was in breach of Regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011. The Tribunal took into account the Respondent's explanation that this was basic human error, that there had been no intention to deprive the Applicant of her deposit and that the deposit had been repaid in full to the Applicant on 2 July.

- Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent(s) for ONE HUNDRED AND FIFTY POUNDS (£150) STERLING

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.

Fiona Watson

Legal Member/Chair

31/8/18.

Date