



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 26 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Chamber Ref: FTS/HPC/PR/20/1254

Re: 13/10, Valleyfield Street, Edinburgh, EH3 9LP ("the Property")

Parties:

Sam Henderson, Colliers Rest, Dunmore, Falkirk, FK2 8LY("the Applicant")

Ms Susan Ellis, Kollwitstrasse 68, Berlin, 10435 ("the Respondent")

Tribunal Member: Jacqui Taylor (Legal Member)

The Tribunal rejects the application by the applicant dated 8th June 2020 being an application under Tribunal Rule 103 (Application for order for payment where landlord has failed to carry out duties in relation to tenancy deposits).

Tribunal Rule 103 applies where a tenant or a former tenant makes an application under regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011.

Regulation 9 applies where a tenant has paid a tenancy deposit where the landlord did not comply with any duty in regulation 3 in respect of that tenancy deposit.

Regulation 3(1) specifies the duties in relation to tenancy deposits and states that a landlord who has received a tenancy deposit in connection with a relevant tenancy must within 30 working days of the beginning of the tenancy pay the deposit to the scheme administrator of an approved scheme.

Regulation 3(3) defines a 'relevant tenancy' for the purposes of paragraphs (1) and (2) as any tenancy or occupancy agreement (a) in respect of which the landlord is a relevant person and (b) by virtue of which a house is occupied by an unconnected person.

The applicant sent the Tribunal Administration an email dated 3rd July 2020 which stated:

'I confirm that I did not collect the keys nor did I ever occupy the property in Valleyfield Street.'

As the applicant never occupied the property the tenancy is not a relevant tenancy as defined in Regulation 3(3) and accordingly the Landlord is not under a duty to lodge the deposit with a scheme administrator of an approved scheme in terms of Regulation 3(1).

Accordingly the Tribunal have good reason to believe that it would not be appropriate to accept the application and reject the application in terms of rule 8 (1)(c) of the Tribunal Rules.

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

J. T

.....Legal Member

Date: 9th July 2020