



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”)**

**Chamber Ref: FTS/HPC/CV/23/2869**

**Re: Property at 7/6 Gillespie Crescent, Bruntsfield, Edinburgh, EH10 4HT (“the Property”)**

**Parties:**

**Mr Matthew Collings, Miss Eilidh Phillips, Mr Gregory Bligh Caplan, Miss Faye Dowse, 64 Dover Park, Dunfermline, Fife, KY11 8HU; 20 Burghlee Terrace, Loanhead, Midlothian, EH20 9BW; 1 Castle Terrace, New Road, Lewes, East Sussex, BN7 1YZ; 23 Dalmorton Road, New Brighton, Wallasey, Merseyside, CH45 1LE (“the Applicant”)**

**Ms Javeria Bashir, 4 Claremont Court, Edinburgh, EH7 4LA (“the Respondent”)**

**Tribunal Members:**

**Nicola Weir (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondent in the sum of £2,500 should be made in favour of the Applicant.**

**Background**

1. By application received on 21 August 2023, the Applicant sought a payment order against the Respondent in the sum of £2,500 in respect of a tenancy deposit which was not returned to the Applicant at the end of the tenancy. Supporting documentation was submitted with the application, including a copy of the tenancy agreement, proof that the deposit had been paid to the Respondent at the outset of the tenancy, proof that the rent had been paid throughout the tenancy, photographs showing the condition of the tenancy on the Applicant vacating and some communications between the parties at various stages throughout the tenancy.

2. The application was subsequently accepted by a Legal Member of the Tribunal acting with delegated powers from the Chamber President who issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations on 7 September 2023. Notification of the application was then made to the Respondent and the date, time and arrangements for a Case Management Discussion (“CMD”) were intimated to the parties, advising of the date by which any written representations should be lodged by the Respondent. Said notification was served on the Respondent by Sheriff Officer on 26 September 2023. No representations were lodged by the Respondent prior to the CMD.
3. A separate application had also been made by the Applicant against the Respondent in terms of Rule 103 of the Regulations in respect of alleged breaches of the Tenancy Deposit Regulations (Chamber Reference FTS/HPC/PR/23/2868) and was being dealt with together with this application.

### **Case Management Discussion**

1. A Case Management Discussion (“CMD”) took place by telephone conference call on 30 October 2023 at 2pm, attended by three of the Applicants, Mr Matthew Collings, Ms Eilidh Phillips and Mr Gregory Bligh Caplan who agreed that Mr Collings would be their spokesperson. The fourth Applicant, Miss Faye Dowse, was abroad and could not dial in on an international number but was available via messaging with the other Applicants if any information was required from her. The Legal Member delayed the start of the CMD for almost 10 minutes to allow an opportunity for the Respondent to join late but she did not do so.
2. After introductions and introductory remarks by the Legal Member, Mr Collings was asked to summarise the application. He confirmed that the Applicants are seeking a payment order in the sum of £2,500 as the Respondent, their former landlord, has failed to refund their tenancy deposit to them. Reference was made to the supporting documentation submitted with the application and it was noted that there was a tenancy agreement between the parties in respect of the Property which commenced on 14 September 2022 and ended on 30 June 2023, after the Applicants gave notice. It was noted that the tenancy agreement makes reference to the tenancy deposit being £2,500 and that screenshots showing a bank transfer to the Respondent in that sum on 20 September 2022 had been submitted with the application. Mr Collings explained that the deposit was paid slightly after the start of the tenancy with the Respondent’s agreement. The four Applicants were joint tenants and the other three had arranged to pay their shares of the deposit to Mr Collings who had then transferred to whole amount to the Respondent. Mr Collings explained that the Applicants were students and they had had difficulty finding a flat in Edinburgh. Mr Collings had put an advert on Gumtree seeking accommodation and the Respondent made direct contact with him and offered him this Property. She explicitly stated that it was not in great condition. Mr Collings referred to the photographs he had submitted to the Tribunal as evidence of the condition of the Property when they all vacated. He indicated that he had also taken a video

of same with the assistance of his father and that this could be produced to the Tribunal if necessary. Mr Collings also stated that the rent was paid throughout the tenancy and referred to the proof of payments of rent submitted with the application, together with various communications between himself and the Respondent. The Applicant's position is that there was therefore no justification for the Respondent to retain the tenancy deposit, either to cover rent arrears or to do with the condition of the Property when they vacated. Mr Collings advised, however, that despite him requesting the deposit back and messaging the Respondent repeatedly about this, the deposit was not returned and nor did the Respondent clarify the position as regards whether the deposit was ever placed in a tenancy deposit scheme, as per the relevant clause in the tenancy agreement. Mr Collings referred to the screenshots lodged of messages between himself and the Respondent which the Legal Member noted spanned the period 16 July to 1 August 2023. Mr Collings confirmed that the Respondent did not carry out any end of tenancy inspection before they vacated and there were no further messages from her, either regarding the return of the deposit nor providing further information regarding the deductions she stated she was proposing to make from the deposit. Mr Collings stated that he had told the Respondent that any deductions she proposed to make from the deposit had to be fair and that this was the very reason that the deposit should be protected in a scheme. He informed her before submitting the application to the Tribunal that he had taken advice and that this was what he was intending to do but she did not seem bothered. Mr Collings confirmed that he has not heard from the Respondent since the application was submitted to the Tribunal.

### **Findings in Fact**

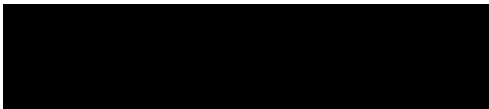
1. The Respondent is the owner and landlord of the Property.
2. The Applicant is the former joint tenant of the Property by virtue of a Private Residential Tenancy which commenced on 14 September 2022.
3. The Applicant vacated the Property on or around 30 June 2023.
4. The rent in respect of the tenancy was £2,500 per calendar month.
5. The tenancy deposit was £2,500 and was paid to the Respondent on or around 20 September 2022.
6. At the end of the tenancy, the Applicant requested return of the deposit.
7. The Respondent has failed to return the deposit to the Applicant and has offered no explanation for her failure to do so.
8. The sum of £2,500 is due and resting owing to the Applicant.
9. The Respondent has not submitted any written representations, nor sought time to pay, in respect of this application. The Respondent did not attend the CMD.

## Reasons for Decision

1. The Legal Member considered all of the background papers, including the application and supporting documentation and the oral submissions made by the Applicant at the CMD. The Legal Member noted that no representations had been made by the Respondent and that she did not attend the CMD, having been properly and timeously notified of same. The Legal Member considered that there was nothing to contradict the information from the Applicant and therefore no requirement to continue the application to an Evidential Hearing. The Legal Member was satisfied that, in the circumstances, a payment order in terms of the application could properly be made at the CMD.
2. The Legal Member was satisfied from the information before her that the sum of £2,500, being the tenancy deposit, is due and resting owing by the Respondent and that an order for payment in that sum should accordingly be made.

## 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.**



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Legal Member/Chair

30 October 2023  
Date