



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies)(Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/23/3106**

**Re: Property at 26/4 Newtoft Street, Edinburgh, EH17 8RD (“the Property”)**

**Parties:**

**Mr Abdulgafaru Shodeinde, 3/1 Piershill Square East, Edinburgh, EH8 7BD (“the Applicant”)**

**Mr Daniel Greaves, 44 Roosevelt Road, Kirknewton, EH7 8AD (“the Respondent”)**

**Tribunal Members:**

**Alison Kelly (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that- an order for payment should be made.**

**Background**

1. The Applicant lodged an application on 5<sup>th</sup> September 2023 under Rule 111 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) seeking return of his tenancy deposit.

Lodged with the application were:

- a. Tenancy Agreement with a commencement date of 27<sup>th</sup> February 2019, with rent of £750 per month and a deposit of £750
- b. Correspondence from the three deposit schemes confirming they had no record of the deposit being lodged
- c. Bank statement showing payment of deposit

2. The papers were served on the Respondent by Sheriff Officers on 1<sup>st</sup> November 2023.
3. On 21<sup>st</sup> November 2023 the Respondent a lengthy submission to the Tribunal, with photographs, outlining the damage he alleged had been caused by the Applicant and his family to the property.
4. On 29<sup>th</sup> November 2023 the Applicant sent a submission to the Tribunal in response.

### **Case Management Discussion**

5. The Case Management Discussion (“CMD”) took place by teleconference. The Applicant represented himself. The Respondent represented himself.
6. The Chairperson introduced everyone and explained the purpose of a CMD in terms of Rule 17.
7. The Applicant said that he had brought the Application because his deposit had not been returned to him when he vacated the property. He was seeking an order for payment.
8. The Respondent confirmed that he had not lodged the tenancy deposit in an approved scheme.
9. The Respondent had lodged a lengthy submission with photographs, showing the state of the property when the Applicant had vacated. He said that he had spent the £750 on repairs, and had actually spent much more than that.
10. This application was conjoined to case FTS/HPC/PR/23/3107, in which the Tribunal mad an award of £1500 as the Respondent had not lodged the depist in an approved scheme.
11. The Chairperson said that if the deposit had been lodged in an approved tenancy deposit scheme the Respondent would have had a mechanism for adjudicating whether or not he had a right to retain the deposit. As he had not done so the Tribunal could not make such an adjudication now.

### **Findings In Fact**

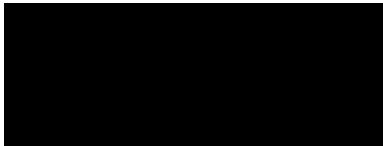
- i. The Applicant entered in to a tenancy agreement for the property on 27<sup>th</sup> February 2019;
- ii. The Applicant paid a deposit of £750 to the Respondent;
- iii. The Respondent did not pay the deposit in to an approved scheme;
- iv. The Applicant vacated the property in August 2023.

## **Reasons for Decision**

12. The Respondent owes the deposit of £750 to the Applicant. Having not deposited it in an approved scheme he had no basis on which to retain it.

## **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**

**11<sup>th</sup> December 2023**

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**Date**