



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Regulation 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011

Chamber Ref: FTS/HPC/PR/23/3062

Re: Property at 1/2 26 Kennedy Path, Townhead, Merchant City, G4 0PP (“the Property”)

Parties:

Miss Shria Kshatrapal Singh, 4/16 220 Wallace Street, Glasgow, G5 8AH (“the Applicant”)

R.S Estates UK Ltd, Mr Ifran Suleman, 17 Kennedy Path, Townhead, Merchant City, G4 0PP (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

- Background

This is an application for an order for payment of a sanction in relation to an alleged failure on the part of the Respondent to pay a tenancy deposit paid to it by the Applicant into an approved scheme and carry out the other duties incumbent on it in terms of reg.3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (‘the Regulations’). It called for a case management discussion (‘CMD’) at 10am on 29 January 2024, by teleconference. The Applicant was on the line in-person. The Respondent was represented on the call by Mr Tahrir Bashir, of GPS Glasgow.

- Findings in Fact

1. The Applicant rented the Property from the Respondent in terms of a private residential tenancy with a start date of 1 August 2022.
2. The Property is a flatted dwellinghouse.
3. In terms of the tenancy agreement, a deposit of £1,000 was paid to the Respondent by the Applicant on entry.
4. The terms of that agreement also state that the Applicant must, “use the house as a residence for me/us and my/our immediate family only.”
5. The Respondent never paid the deposit into an approved scheme or provided any of the information required by reg.3 of the Regulations.
6. The Respondent is a business which has operated as a landlord at this Property for 3 to 4 years.

- Reasons for Decision

7. The findings in fact above are the relevant facts that were taken into account by the Tribunal, such as were not in dispute between the parties. This matter was conjoined with two actions for payment where there are fundamental facts in dispute and, consequently, where a hearing has been fixed. The Tribunal did not consider that there were any relevant facts in dispute in this case.
8. The Respondent indicated that its position was that the lease in this case was a commercial one and that, for that reason, it was under no obligation to pay the deposit into an approved scheme. That position is so obviously untenable as to be unstateable. The section quoted above from the lease is sufficient to establish that no such misapprehension was in the Respondent’s mind.

(There are several others to similar effect.) There was no other information advanced by the Respondent's representative in mitigation.

9. The Respondent has shown a worrying disregard for the duties incumbent upon it as a landlord. This is evident not just from its complete failure to comply with the terms of reg.3 of the Regulations; but also from its outrageous attempt to excuse this on such spurious grounds. These failings are made even more concerning by the fact that it is a company whose business it is to act as a landlord and that it has done so, at least at this property, for almost 4 years. That suggests that this failure is not an isolated one.

10. In these circumstances, the Tribunal considered that only a sanction at the top end of the scale would be sufficient to reflect the gravity of the Respondent's failure. It therefore granted an order for payment to the Applicant of three times the deposit, or £3,000.

- Decision

Order made for payment by the Respondent to the Applicant of the sum of £3,000 (THREE THOUSAND POUNDS 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.



29/01/2024

Legal Member/Chair

Date