



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/23/3043

Re: Property at 5 Robbins Court, Tradespark, Nairn, IV12 5PL (“the Property”)

Parties:

Miss Rhyanna Logan, Brackley Farm Cottage, Gollanfield, Inverness, IV2 7QT (“the Applicant”)

Mr William Downie, Ellands Farm, Ellands of Brodie, Forres, IV36 2TE (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order against the Respondent for payment to the Applicant the sum of Five Hundred Pounds (£500)

Introduction

This is an application under rule 111 and section 71 of the Private Housing (Tenancies) (Scotland) Act 2016.

Service of the proceedings and intimation of the Case Management Discussion (‘CMD’) was effected upon the respondent by Sheriff Officers on 27 November 2023.

The CMD took place by teleconference on 18 January 2024 at 2.00 pm. The applicant was represented by her mother Ms Julia Logan. The respondent failed to participate in the hearing.

Findings and Reasons

The property is 5 Robbins Court, Nairn IV12 5PL. The applicant is Miss Rhyanna Logan who is the former tenant. The respondent is Mr William Downie who is the named landlord. His wife owns the property.

The parties entered into a private residential tenancy which commenced on 19 November 2019. The rent was stipulated at £575 per month. The applicant paid a deposit in the sum of £500. The applicant vacated the property on 19 August 2023.

The applicant identified that the Tenancy Deposit Schemes (Scotland) Regulations 2011 were not adhered to. Her deposit was not paid into any one of the three Tenancy Deposit Schemes operating in Scotland which are Safe Deposit Scotland. Her previous application to the tribunal under the 2011 Regulations under reference FTS/HPC/PR/23/2790 was successful and an award of £850 was made in her favour on 16 November 2023.

The property is not on the Scottish Landlord Register. The tribunal is under a duty to inform the relevant local authority under section 72 of the 2016 Act as it appears that the respondent has acted as an unregistered landlord which is a criminal offence.

The applicant has provided copy electronic messages between the parties in which she raised the return of her deposit. The respondent replied to the effect that the deposit was not returned due to the condition of the property at the time she vacated it. The Respondent has not lodged any written submissions in this process.

The applicant has provided photographs of the property at the time she vacated it. The photographs provided by the applicant show that the rooms were clear and empty at the end of the tenancy at the time of the applicant' vacation and there was no mess as suggested by the respondent in his previous electronic exchanges. It is also clear that the general condition of the property was poor due to age.

The applicant has already been prejudiced by the respondent's failure to protect her deposit. She is entitled to the return of the deposit paid. There is no credible or reliable evidence that the respondent was entitled to withhold any of it.

In the circumstances the tribunal makes a payment order in favour of the applicant for £500.

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.

[Redacted Signature]

18 January 2024

Legal Member/Chair

Date