



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section under regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011

Chamber Ref: FTS/HPC/PR/24/2822

Re: Property at 16 Abercorn Place, Glasgow G23 5BL (“the Property”)

Parties:

Mr Peter Kaszap-Nagy, residing at 16 Formby Drive, Glasgow, G23 5QN (“the Applicant”)

Mr Pardip Singh, residing at 81 Blackhill Gardens, Glasgow, G23 5NE (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent has breached his obligations under regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011.

Background

1. The Applicant and the Respondent entered into a private residential tenancy agreement for the property on 31/01/2019. The applicant moved out of the property on 13 April 2024 after receiving a notice to leave.

The Case Management Discussion

2. A case management discussion took place by telephone conference at 2pm on 6 September 2024. The Applicant was present and unrepresented. The respondent was present and represented by his son in law, Tallon Sculthorpe.

3. The respondent fully accepts that a deposit was paid at the commencement of the tenancy, and that deposit was not placed with an approved tenancy deposit scheme. The respondent understands that a payment order must now be made against him.

4. Both parties agree that the deposit was not lodged with an approved tenancy deposit scheme within 30 days of commencement of the tenancy. Regulation 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 tells me that, in light of that admitted fact, I must make a payment order against the respondent. I can dispose of this case today, without the need for a further hearing.

Findings in Fact

5. (i) The Applicant and the Respondent entered into a private residential tenancy agreement for the property on 31/01/2019. The applicant moved out of the property on 13 April 2024 after receiving a notice to leave.

(ii) The rent in terms of the Tenancy Agreement was £595 per month. Before moving into the property, the applicant paid the respondent £1,190. £595 was a security deposit, the remaining £595 was one month's rental paid in advance.

(iii) The tenant vacated the property on 13 April 2024. The respondent has not repaid any money to the applicant.

(iv) There is a separate dispute between the parties about whether or not the deposit funds have been spent by the respondent on repairs necessary at the end of the tenancy.

Reasons for Decision

6. It is beyond dispute that a deposit of £595 was paid at the commencement of the tenancy. It is an admitted fact that the deposit was not paid into an approved scheme and was held by the respondent throughout the tenancy.

7. This is the respondent's only let property. He is a self-employed taxi driver. Against those mitigating factors I must balance the undisputed fact that the deposit was unprotected for many months.

8. The Applicant asked me to make a payment order. The purpose of the order is not to enrich the applicant. The purpose of the order is to mark society's displeasure; to protect society, and to ensure the enforcement of the 2011 Regulations in the future.

9. The amount of deposit was £595. For five years the deposit was not protected. A payment order equivalent to twice the value of the deposit reflects the seriousness of the breach of the 2011 Regulations.

10. The appropriate level of payment order is £1,190.00

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent for payment to the Applicant of One Thousand One Hundred and Ninety pounds (£1,190.00) within 14 days of service of this order.

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.

P Doyle

Legal Member

Date: 6 September 2024