



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

Chamber Ref: FTS/HPC/PR/24/0503

Re: Property at 24 Glen Eagles, East Kilbride, G74 2JN (“the Property”)

Parties:

Ms Elaine Crawford and Mr David Crawford , 24 Glen Eagles, East Kilbride, G74 2JN (“the Applicants”)

Ms Ruth Templeton, 7 Barrow Park, Blackwood, Lanark, ML11 9ZN (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for payment in the sum of SIX HUNDRED AND FIFTY POUNDS (£650)

Background

1. By application dated 26 January 2024 the applicants seek an award under the Tenancy Deposit Schemes (Scotland) Regulations 2011. The applicants lodged with the application:
 - Copy lease
 - Proof of payment of deposit.
2. The respondent’s representative lodged written representations in advance of the case management discussion (“cmd”).
3. A cmd took place via teleconference on 10 October 2024.

Case management discussion – 10 October 2024- teleconference

4. Ms Crawford was in attendance. She stated that she appeared on behalf of both applicants. Mr Crawford submitted an email authorising Ms Crawford to act on his behalf. The respondent was present and represented by her solicitors, Ms Herd from Complete Clarity solicitors.
5. Ms Crawford confirmed that parties had entered into a tenancy agreement with commencement date of 1 December 2016. A deposit of £650 was paid at the commencement date.
6. Ms Crawford stated that she initially thought the deposit had been placed in a suitable scheme. She stated that her primary concern was to ensure that she received an award that would cover the amount of the deposit.
7. In terms of the written representations which had been lodged on the respondent's behalf, it was accepted that there had been a breach of the tenancy deposit regulations as the tenancy deposit had not been lodged from the commencement of the tenancy agreement until 2 October 2024. The respondent stated that she had been unaware of the law relating to tenancy deposits when the tenancy commenced. She stated that she had also wanted to have the deposit to hand in case the tenancy ended at short notice. In the written representations the respondent had stated that any award under the regulations should be for a minimal amount.
8. During the course of the cmd the respondent consented to an order in the sum sought i.e. £650 being granted.

Findings in fact

9. Parties entered into a tenancy agreement with a commencement date of 1 December 2016
10. A deposit of £650 was paid at the commencement of the tenancy.
11. The respondent failed to lodge the deposit in a tenancy deposit scheme as required in terms of regulation 3 of the [Tenancy Deposit Schemes \(Scotland\) Regulations 2011/176](#) until 2 October 2024.

Reasons for the decision

12. The Tribunal took into account the parties written and oral submissions and the various documents lodged by parties.
13. It was not disputed that parties entered into a tenancy agreement with a commencement date of 6 January 2016 and that the tenancy had been unprotected until 2 October 2024.
14. The Tribunal made a determination as to the level of award on the basis that that parties were in agreement that an award under the tenancy deposit regulations of £650 was appropriate.
15. An award of £650 complied with Regulation 10 which states:
If satisfied that the landlord did not comply with any duty in regulation 3 the [First-tier Tribunal] —
(a) must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit
16. The legal test to be applied in determining the level of sanction is set out in *Jenson v Fappiano* 2015 G.W.D. 04-89 and subsequent case law. Those authorities are reviewed by Sheriff Cruickshank in *Ahmed v Russell* 2023 S.L.T. (Tr) 33 and confirm the Tribunal should seek to assess a sanction that is “fair and proportionate” in all the circumstances, taking into account both aggravating and mitigating circumstances. An award of £650 complied with the relevant legal test.

Decision

The respondent is ordered to pay the applicant the sum of £650 in terms of regulation 10(a) of the Tenancy Deposit Schemes (Scotland) Regulations 2011.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal’s decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland

(Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Mary-Claire Kelly

10 October 2024

Legal Member/Chair

Date