



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/24/2774

Re: Property at 6/4 301 Glasgow Harbour Terraces, Glasgow, G11 6BP (“the Property”)

Parties:

Mr Baiyi Chen, Mr Hongzhi Liu, 2/1 7 Lymburn Street, Glasgow, G3 8PD; Unit 2 Building 36, Guihuayaan, Jinan, Shandong Province, China (“the Applicant”)

Mr Sarah Khan, 16 Lapwing Avenue, Glasgow, G66 3DJ (“the Respondent”)

Tribunal Members:

Anne Mathie (Legal Member)

Decision (in absence of the Applicants)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for payment requested in respect of repayment of the tenancy deposit for the Property be refused.

Background

1. An application was received dated 15 June 2024 in terms of Rule 111 of the Chamber Rules being an application for civil proceedings in relation to a private residential tenancy. The covering email sent with the application stated *“I’m going to sue my landlord. My tenancy deposit was not protected by any scheme for a year and a half and the landlord has delayed and refused to return my deposit. Here’s the application form and the required documents.”*
2. Along with the application form the Applicants submitted the following:
 - Copies of bank transfer information
 - Screenshots of online chats
 - Copy tenancy agreement
3. At part 5(c) of the application form the Applicants stated that they wanted the following order from the Tribunal:

“I would like the court to ask the landlord to change the incorrect deposit amount on the contract and return the correct deposit as quickly as possible through legal means.”

4. The application was accepted and assigned to a case management discussion by teleconference today.
5. Notification of the application and accompanying documents was served on the Respondent.
6. The Respondent contacted the Tribunal to request an extension to the deadline for submitting written representations. Written representations were submitted on 14 November 2024.
7. The Respondent contacted the Tribunal again yesterday with a copy of communication from Safe Deposits Scotland (undated) confirming that the deposit of £2500 had been released and asking for 5 working days to be allowed before it reached the bank account.

Case Management Discussion

8. The case management discussion took place today by teleconference. The Respondent attended along with her representative, Ms Sahira Rafiq. Ms Rafiq referred the Tribunal to the written representations and other documents lodged on behalf of the Respondent. She advised that, as per the email sent to the Tribunal yesterday, a sum of £2500 representing the whole of the deposit would be paid to the Applicants by Safe Deposits Scotland within 5 working days of yesterday. The Respondent had spoken with the Applicants on 4 November to see if they were willing to withdraw their application in the circumstances but they declined to do so.

Findings in Fact

9. The Tribunal made the following findings in fact:
 - The Parties entered into a private residential tenancy agreement commencing on 18 January 2023;
 - The Applicants paid the Respondent the sum of £2500 as a deposit although the tenancy agreement erroneously states the sum of £2000 was paid;
 - Rent was payable in terms of the tenancy agreement in the sum of £1650 per calendar month;
 - The whole sum of £2500 is due to be repaid to the Applicants by Safe Deposits Scotland within 5 working days of 21 November 2024.

Reasons for Decision

10. In reaching its decision, the Tribunal took into account all the written submissions and evidence before it along with the oral submissions of the Respondent today. The payment order sought ought to be refused as the Tribunal was satisfied that Safe Deposits Scotland would repay the whole of the £2500 deposit due to be repaid within 5 working days of 21 November 2024.

Decision

11. The Tribunal decided that the application for a payment order in the sum of £2500 in respect of repayment of the tenancy deposit for the Property be refused.

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.

Anne Mathie

22 November 2024

Legal Member/Chair

Date