



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber)
under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/CV/24/4038

Re: Property at 22/8 Great Junction Street, Edinburgh, EH6 5LA (“the Property”)

Parties:

Ms Fengxia Wang, 2F1, 35 Buccleuch Place, Edinburgh, EH8 9JS (“the Applicant”)

Mr Rana Islam, 33 Coombewood Drive, Romford, Essex, RM6 6AB (“the Respondent”)

Tribunal Members:

Sarah O'Neill (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondent of the sum of £15 should be granted in favour of the Applicant.

Background

1. An application was received from the Applicant on 29 August 2024 seeking a payment order in terms of rule 111 (Application for civil proceedings in relation to a private residential tenancy under the Private Housing (Tenancies) (Scotland) Act 2016) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”).
2. The Applicant was seeking an order for payment of £15 in respect of a deduction made by the Respondent from her tenancy deposit based on a claim from her previous flatmate, who alleged her food spoiled as a result of the Applicant’s failure to top-up the electricity sufficiently while she was away.
3. Attached to the application form were:

- (i) Copy private residential tenancy agreement between the Applicant and Ms Gurasees Kaur Pruthi and the Respondent and Shahan Islam, which commenced on 30 December 2023.
 - (ii) Copy WhatsApp messages between the Applicant and Ms Pruthi dated 22 and 25 April 2024.
 - (iii) Copy WhatsApp messages between the Applicant and the Respondent dated 27 May and 11 June 2024.
4. The application was accepted on 2 October 2024.
 5. Notice of the case management discussion (CMD) scheduled for 11 March 2025, together with the application papers and guidance notes, were served on the Respondent by sheriff officers on behalf of the Tribunal on 13 February 2025. The Respondent was invited to make written representations in relation to the application by 25 February 2025.
 6. Written representations were received from the Respondent on 3 March 2025.
 7. Further submissions were received from the Applicant on 4, 5, 6 and 10 March 2025.

The case management discussion

8. A CMD was held by remote teleconference call on 11 March 2025 to consider both the present application and the accompanying rule 103 application (reference no: FTS/HPC/PR/24/3964). The Applicant was present on the teleconference call and represented herself. She was accompanied by a supporter, Mr Gordon Maloney. The Respondent was present on the teleconference call and represented himself.
9. A Mandarin interpreter, Ms Lisa Tervit, was also present, as requested by the Applicant. The Applicant told the Tribunal that she did not require to have everything that was said during the CMD interpreted. She may, however, need an interpreter if there was anything she was having difficulty in understanding. In the event, she did not require anything to be interpreted during the CMD.

Preliminary issue

10. The Tribunal Chairperson noted that lengthy submissions amounting to more than 100 pages and some video evidence had been received from the Applicant on 5, 6 and 10 March, which was less than a week before the CMD. In terms of the Tribunal's rules, any documents should be lodged no later than 7 days prior to a hearing. The Tribunal did not consider that it was reasonable to accept this evidence given its volume, as neither the Tribunal nor the Respondent had had sufficient notice of this in advance of the CMD.

The Applicant's submissions

11. The Applicant told the Tribunal that the Respondent had unlawfully deducted £15 from her tenancy deposit, which he had not placed in an approved tenancy deposit scheme, without providing a legitimate or reasonable explanation.
12. The deduction had been made on the grounds that her former flatmate, Ms Gurasees Pruthi, had claimed that £31.32 worth of food belonging to her had been spoiled due to a lack of electricity while she was away from the property. Ms Pruthi had alleged that this occurred because the Applicant did not top-up the electricity sufficiently before she herself went away for a period.
13. The Applicant argued that she was not responsible for Ms Pruthi's food being spoiled. She produced WhatsApp messages between herself and Ms Pruthi where Ms Pruthi told her to top up the electricity as suited her. She had done so, and had asked Ms Pruthi when she would be back but had received no reply. She then left the property herself from 25 April until 12 May 2024.
14. In any case, had the Respondent paid her tenancy deposit into an approved scheme as he was required to do, she would have had the opportunity to challenge any proposed deduction in respect of the spoiled food through the scheme. She had been deprived of the opportunity to do so, and the Respondent had taken the matter into his own hands without sufficient evidence or any legal basis to do so.
15. The Applicant therefore asked the Tribunal to make a payment order for £15 in her favour against the Respondent.

The Respondent's submissions

16. The Respondent admitted that he had deducted the £15 from the Applicant's tenancy deposit. He admitted that he had not paid the deposit into an approved scheme but had held the Applicant's tenancy deposit himself.
17. He had received a complaint from Ms Pruthi that her food had been spoiled while she was away from the property because the Applicant had not topped up the electricity. He had tried not to get involved, but had talked to both the Applicant and Ms Pruthi and encouraged them to resolve the matter amicably between themselves. The Applicant had refused to sort the matter out with Ms Pruthi, and he had then become involved. He had decided to split the amount due between them at £15 each, which he believed to be a fair decision.
18. The Respondent said that the matter could have been resolved without the need for a Tribunal application, had the Applicant come to him first. He said

that he had been under the impression that everything was fine between them when she had left the property. The Applicant had not contacted him about the matter following the end of her tenancy. Neither had she sent him a ‘Letter before action’ before making an application to the Tribunal.

19. He said that he would have refunded the £15 to the Applicant, had she contacted him, as it was an insignificant sum. He indicated that he did not dispute the application and would pay the £15 to the Applicant.

Findings in fact

20. The Tribunal made the following findings in fact:

- The Respondent is the joint owner (with Shahan Islam) and registered landlord of the property.
- The Applicant and Ms Giurasees Kaur Pruthi entered into a private residential tenancy agreement with the Respondent and Shahan Islam, which commenced on 30 December 2023.
- The tenancy was a ‘relevant tenancy’ in terms of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the 2011 regulations”).
- The Applicant paid a tenancy deposit of £550 to the Respondent on 11 December 2023.
- The Respondent did not pay the Applicant’s tenancy deposit into an approved tenancy deposit scheme.
- The Applicant left the property on 29 May 2024, as agreed with the Respondent.
- The Respondent repaid to the Applicant the sum of £535 in respect of her deposit on 15 June 2024, having deducted £15 in respect of spoiled food belonging to Ms Pruthi.

Reasons for decision

21. The Tribunal considered that in the circumstances, it was able to make a decision at the CMD without a hearing as: 1) having regard to such facts as were not disputed by the parties, it was able to make sufficient findings to determine the case and 2) to do so would not be contrary to the interests of the parties. It therefore proceeded to make a decision at the CMD without a hearing in terms of rules 17(4) and 18 (1) (a) of the 2017 rules.

22. The Tribunal noted that the Respondent did not wish to dispute the Applicant’s claim and had indicated that he would pay the £15 to her.

23. It is not for the Tribunal to make any finding on whether the Applicant was due to pay the £15 to Ms Pruthi. The Tribunal determined in respect of the rule 103

application that the Respondent had failed to comply with his duty under Regulation 3 of the 2011 Regulations to pay the Applicant's tenancy deposit into an approved tenancy deposit scheme. The Tribunal considers that the dispute was between the Applicant and Ms Pruthi, and was not for the Respondent to decide on. The Applicant had been deprived of the opportunity to dispute the matter through an approved tenancy deposit scheme.

24. On the basis of all the evidence before it, the Tribunal was satisfied that the Respondent should repay £15 to the Applicant in respect of the unauthorised deduction from her tenancy deposit.

Decision

The Tribunal grants an order for payment by the Respondent to the Applicant for the sum of £15.

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.

Sarah O'Neill

17 March 2025

Legal Member/Chair

Date