



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014**

**Chamber Ref: FTS/HPC/CV/21/1095**

**Re: Property at 640 King Street, Aberdeen, AB24 1SN (“the Property”)**

**Parties:**

**Miss Samantha Irvine, 88 Summerhill Drive, Aberdeen, AB15 6TZ (“the Applicant”)**

**Mr Douglas Matheson, Smiddyboyne Farm, Banff, AB42 2LN (“the Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the case should be dismissed as the Tribunal lacks jurisdiction in relation to the proceedings.**

**Background**

1. This is an application received in the period from 10<sup>th</sup> May to 22<sup>nd</sup> July 2021 made in terms of Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The Applicant was seeking the return of her tenancy deposit in the sum of £495. The Applicant lodged a copy of the tenancy agreement. The tenancy commenced on 11<sup>th</sup> November 2020 and ended on 11<sup>th</sup> March 2021.
2. By letter dated 2<sup>nd</sup> September 2021, the Respondent made written representations.

**The Case Management Discussion**

3. The case called for a Case Management Discussion (“CMD”) by telephone conference on 16<sup>th</sup> September 2021. Both parties were in attendance. The Respondent was supported by Mr Sam Gluckstein.

4. Following discussion and representations from both parties it transpired that the tenancy deposit was lodged in two separate amounts with an approved tenancy deposit scheme ("TDS"). The sum of £200 was lodged on 29<sup>th</sup> January and the sum of £295 on 12<sup>th</sup> February 2021. The Landlord discovered that the TDS had put the sums into two separate accounts. He applied to the TDS for return of both sums and the sums were returned to him.
5. The Applicant said she had been informed by the TDS that the Landlord had requested return of the sum of £200. She had asked the TDS to hold this sum, pending the outcome of the case before the Tribunal but they had refused to do so and the money had been returned to the Landlord. With regard to the second amount, the Applicant said she was not notified by the Landlord that it had been lodged with a TDS, and she did not get written notification from the TDS. She made several calls to the TDS, and was told they had not been able to locate this sum. She was, therefore, prevented from seeking adjudication on the sum. The TDS had told her they could do nothing about this issue. It was her position that the Landlord had provided incorrect details to the TDS, hence their lack of notification to her.
6. The Landlord denied providing incorrect details to the TDS and said he had informed the Applicant on or around 13<sup>th</sup> February 2021 that he had lodged the second sum with the TDS. There was further notification of this to the Applicant through the Tribunal as part of another case between the same parties on 17<sup>th</sup> May 2021.

### **Reasons for Decision**

7. The Tribunal considered, having ascertained the nature of the dispute, that it did not have jurisdiction to consider this case. The Tenancy Deposit Schemes (Scotland) Regulations 2011 provide for an approved TDS to hold deposits and arrange their return, providing an adjudication service to parties at the end of the tenancy. Any concerns in relation to whether or not the TDS has followed the correct procedure in this case should be directed to the TDS. It is not a matter for the Tribunal to determine. The Applicant may wish to take advice from a suitable agency concerning this matter.

### **Decision**

8. The case is dismissed as the Tribunal lacks jurisdiction in relation to the proceedings.

### **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.**



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**Legal Member/Chair**

**16<sup>th</sup> September 2021**  
**Date**