



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 Private Housing Tenancies (Scotland) Act 2016.

Chamber Ref: FTS/HPC/CV/23/0694

Property at 15 Craighurn Crescent, Houston, Renfrewshire, PA6 7NE (“the Property”)

Parties:

Mrs Margaret Kirton, 41 Parkside Gardens, Widdrington Morpeth, Northumberland, NE61 5RP (“the Applicant”)

Mr Jason Smith, 6 Leeburn Avenue, Houston, Johnstone, Renfrewshire, PA6 7DN (“the Respondent”)

Tribunal Member:

Josephine Bonnar (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of the sum of £388 should be granted against the Respondent in favour of the Applicant.

Background

- 1. The Applicant seeks a payment order in relation to a tenancy deposit. Part of a tenancy agreement was lodged with the application.**
- 2. A copy of the application was served on the Respondent by Sheriff Officer. Both parties were advised that a case management discussion (“CMD”) would take place by telephone conference call on 6 July 2023 at 2pm and that they were required to participate. They were provided with the telephone number and passcode. Prior to the CMD the Applicant’s representative sent an email indicating that she might be unable to participate in the CMD. She asked if the Applicant could participate or if the matter could proceed in the absence of both.**

The representative was notified that either the Applicant or a representative was required to attend the CMD.

3. The CMD took place on 6 July 2023. Neither party participated. The Legal Member noted that the Respondent had not lodge written representations prior to the CMD. The Applicant had only indicated that there might be a difficulty with the conference call but did not request a postponement. The Legal Member determined that a decision on the application could not be made in the absence of the Applicant and up to date information and adjourned the CMD to a later date. A direction was issued which required the Applicant to confirm if the application was to proceed or be withdrawn.
4. The Applicant notified the Tribunal that the application was to proceed and that she would be represented by Mrs Ferguson. The parties were notified that a CMD would take place by telephone conference call on 13 September 2023 at 2pm by telephone conference call. The CMD took place on that date. The Applicant was represented by Mrs Ferguson. The Respondent did not participate, or lodge written representations.

Case Management discussion

5. Mrs Ferguson told the Tribunal that the Respondent did not return the tenancy deposit at the end of the tenancy. Although the agreement refers to a deposit of £450, she actually paid £388 which is the sum being claimed. Mrs Ferguson could not recall the reason for the discrepancy but thought it related to her benefits. The property was in disrepair during the tenancy as the Respondent failed to carry out essential repairs. At the end of the tenancy, the property was left in good condition by the Applicant and the rent was paid up to the end of the notice period. The Respondent visited the Applicant and stated that she still owed some rent. However, this was not true, and the Applicant explained how the final rent payment had been calculated. The tenancy deposit was not lodged in an approved scheme during the tenancy. Since the tenancy ended, efforts to contact the Respondent regarding the return of the deposit have been unsuccessful.

Findings in Fact

6. The Respondent is the owner and landlord of the property.
7. The Applicant is the former tenant of the property. The tenancy terminated on 19 November 2022.
8. The Applicant paid a deposit of £388 at the start of the tenancy.
9. The Respondent did not lodge the deposit in an approved tenancy deposit scheme and has failed to return the deposit to the Applicant.

Reasons for Decision

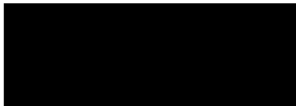
10. From the documents lodged by the Applicant and the information provided at the CMD, the Legal Member is satisfied that the Respondent failed to repay the deposit of £388 to the Applicant at the end of the tenancy and that she is entitled to a payment order in relation to same.

Decision

11. The Tribunal determines that an order for payment should be granted against the Respondent.

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.



Josephine Bonnar, Legal Member

13 September 2023