

Housing and Property Chamber
First-tier Tribunal for Scotland



**Decision with Statement of Reasons 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/23/0896

Re: Property at 179 Union Street, Aberdeen, AB11 6BB (“the Property”)

Parties:

Mr Owain Jones, 8 Roslyn Terrace, Aberdeen, AB24 5LJ (“the Applicant”)

**Latchcross Limited, 72 Blenheim Place, Aberdeen, AB25 2DY (“the
Respondent”)**

Tribunal Members:

Valerie Bremner (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be dismissed.**

Background

1. This application in terms of Rule 111 of the tribunal rules of procedure was first lodged with the tribunal on 20th March 2023 and accepted by the tribunal on 5th July 2023. A case management discussion was fixed for 29th September 2023 at 10 am.

Case Management Discussion

2. The applicant Mr Owain Jones attended the case management discussion and represented himself. There was no appearance by or on behalf of the Respondent company and the tribunal legal member noted that the application and papers had been served on the company by sheriff officers and was therefore content to proceed in the absence of the Respondent company, fair notice of the application and case management discussion having been given to them.

3. The tribunal had sight of the application, a tenancy agreement, a series of emails, a bank statement and information from a joint tenant explaining that she had left the matter in the hands of the Applicant to deal with the matter of the deposit.

4. The Applicant had entered into private residential tenancy at the property with another individual with effect from 27th July 2021. The first month's rent and a deposit were paid on 26th and 27th July 2021. The deposit paid was £525.00 in total. The Applicant and the other tenant in terms of the tenancy agreement vacated the property by 27th October 2022 and the keys were returned around the 12th of November 2022.

5. Mr. Jones explained to the tribunal legal member that he and the other tenant had left the property in better condition than they had found it, spending three days cleaning, and ensuring that all of their furniture and property was removed. Despite a number of requests up to the time of the application to the first-tier tribunal the deposit was not returned to them by the Respondent.

6. Mr. Jones advised that he had made two applications to the tribunal, one in relation to return of the deposit and another for sanction on a landlord in terms of the Tenancy Deposit Schemes (Scotland) Regulations. 2011. He understood that both applications were being dealt with together. The tribunal legal member explained that applications of this nature are dealt with separately and that the application before the tribunal at the case management discussion dealt only with the return of the deposit as set out by him in the initial application. Enquiry by the tribunal clerk confirmed that a separate application with reference number HPC.PR.23.0881 had been rejected by the tribunal in a decision dated 4th April 2023, the application having been lodged outwith the three months period from the end of the tenancy as required by the Regulations. Mr Jones had not understood this to be the case and in the course of further discussion confirmed that the deposit had been returned in full to him earlier in September 2023.

7. The tribunal legal member confirmed to the Applicant that since the application before the tribunal dealt only with the return of the deposit and given that he was confirming that this had been returned in full, there was no basis in law for the tribunal to make an order and the tribunal would require to dismiss the application unless it was withdrawn.

8. Mr. Jones confirmed that he understood the position and in these circumstances the tribunal dismissed the application as the sum of money being requested had been paid back and was not lawfully due.

9. Mr. Jones was concerned as to whether there were any other legal steps he could take in respect of the handling of the deposit and the way the return of the deposit was dealt with. The tribunal legal member explained that she could not give advice to him. It was explained that he could take further advice from an organisation such as the Citizens Advice Bureau or Shelter Scotland or a local law centre as to whether he had further rights or sustained any other losses which might give rise to a right of action in law.

Findings in Fact and Law

10. The Applicant and Respondent entered into a private residential tenancy at the property with effect from 27th of July 2021 with another tenant also named on the tenancy agreement.

11. The Applicant paid a deposit of £525 to the Respondent shortly before the start of the tenancy.

12. The Applicant and the other tenant vacated the property by 27 October 2022 and the keys were to the property were returned around 12th November 2022.

13. Despite requests by the Applicant the deposit was not returned prior to him making an application to the first-tier tribunal in March 2023.

14. In September 2023 before the case management discussion on 29th September the deposit was returned in full to the Applicant by the Respondent.

15. The deposit of £525 paid in respect of this tenancy having been fully refunded to the Applicant it is not lawfully due by the Respondent to the Applicant.

Reasons for Decision

This application related only to the request for return of a deposit paid in a tenancy. Although there was some delay in returning the deposit the Applicant confirmed it had been repaid prior to the case management discussion in these circumstances the application was dismissed.

Decision

The Tribunal dismissed the application.

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.



Legal Member/Chair

29.9.23

Date