



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/20/1816

Re: Property at 189 Craigielea Road, Renfrew, PA4 8EW (“the Property”)

Parties:

Ms Kathryn Allan, 3 Cedar Gardens, Glasgow, G73 4HD (“the Applicant”)

Mr Mark Crilly, 64 John Neilston Avenue, Paisley, PA1 2SX (“the Respondent”)

Tribunal Members:

Martin McAllister (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent pay the sum of Four Hundred and Fifty Pounds (£450) to the Applicant.

1. Background

This is an application made about a tenancy deposit. The Applicant and the Respondent entered into a tenancy agreement in respect of the Property. It is dated 8th January 2020 and details a commencement date of 8th January 2020 with a monthly rental of £450. The tenancy agreement states that a deposit of £450 was paid at the commencement of the tenancy. This application is seeking payment of the sum of £450 by the Respondent to the Applicant in respect of the deposit which had been paid and had not been returned. The application is made under Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (the Rules) and there is a separate application under Rule 103 of the Rules in respect of a failure to comply with the Tenancy Deposit Schemes (Scotland) Regulations 2011.

2. Application

The application states that the Applicant moved into the Property on 8th January 2020 and paid £450 in respect of rent and £450 in respect of a deposit. The application states that these payments were made by bank transfer and that the Respondent moved out of the Property on 7th June 2020 after a dispute over repairs required to the Property. The application states that the deposit of £450 has not been returned to the Applicant.

3. Acceptance of Application

The application was accepted by a legal member of the Tribunal with delegated powers of the Chamber President on 31st August 2020 and a case management discussion was fixed for 12th October 2020. Parties were invited to make written representations. Neither did. Intimation of the case management discussion was made on the Respondent by Sheriff Officers on 14th September 2020.

4. Case Management Discussion

The case management discussion was held on 12th October and it was conducted by audio conference as a consequence of the Covid-19 restrictions.

There was no appearance by the Respondent.

There was no appearance by the Applicant but she was represented by Mr John Gallagher of Paisley Citizens Advice. The purpose of a case management discussion was explained.

5. The Issues

Mr Gallagher said that the position is that the Applicant had paid a deposit to the Landlord and that it had not been paid into a tenancy deposit scheme. He referred the tribunal to documents lodged with the application.

The tenancy agreement which was unsigned detailed that a deposit of £450 was paid. There were copy screenshots showing that the Applicant had paid £900 to the Respondent and Mr Gallagher said that this was for payment of the first month's rent and the deposit of £450. Mr Gallagher said that the Property did not appear in the

Register of Landlords and that the Respondent was therefore an unregistered landlord.

6. Documents before the Tribunal

6.1 The Application dated 18th June 2020

6.2 Screenshots of bank statements showing payment of £900 from the Applicant's bank account.

6.3 Unsigned tenancy agreement.

The tribunal considered whether or not a Hearing was required to determine the matter or if it could be dealt with at the case management discussion. It noted that the Respondent had made no representations and that the date of the case management discussion had been intimated to him and that he had chosen not to participate. The tribunal considered that it had sufficient information to determine the application.

7. Reasons

The tenancy agreement states that a deposit was paid on 22nd December 2012.

The screenshot of the bank statement shows that a payment of £900 was paid from the Applicant's bank account. The reference against the payment is "CRILLY."

The tribunal accepted that this payment of £900 had comprised payment of £450 for rent and £450 in respect of a deposit. It accepted that the deposit had not been returned. The Respondent had not taken the opportunity of either making representations or participating in the case management discussion and the tribunal considered that it was appropriate that the Applicant be given a payment order to enable her to recover the funds as soon as possible.

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.

Martin McAllister

Martin J. McAllister, Legal Member 12th October 2020