



**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/21/2353

Re: Property at 8 Watson Park, St Ola, Kirkwall, KW15 1WB (“the Property”)

Parties:

**Mr Frank McKenzie, Mrs Karen McKenzie, 16 St Rognvald Street, Kirkwall, KW15
1PR (“the Applicants”)**

**Ms Shona Budge or Savage, The Inn, Holm, St Mary's, Orkney, KW17 2RT (“the
Respondent”)**

Tribunal Members:

Nicola Irvine (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) granted an order for payment against the Respondent in favour of the
Applicants in the sum of £675.**

Background

- [1] The Applicants submitted an application seeking an order for payment in respect of the deposit paid by them to the Respondent. The Tribunal intimated the application to the Respondent by letter dated 19 October 2021. The Respondent was advised of the date, time and conference call details of today’s case management discussion. In that letter, the Respondent was advised that any written representations she wished to make should be sent to the Tribunal by 3 November 2021. The Respondent was also told that she required to take part in the case management discussion and was informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent lodged written representations on 28 October and 17 November 2021.

The Case Management Discussion

- [2] The Applicants' representative, Mr Dunbar, and the Respondent participated in the case management discussion which took place by conference call. The Respondent was accompanied by Mr Simpson, supporter. This case management discussion took place alongside a discussion in the related application which proceeds under chamber reference FTS/HPC/PR/21/2114.
- [3] The Tribunal observed that the Respondent's written representation dated 28 October contained an offer to repay the deposit to the Applicants in the sum of £675. The Respondent advised that she is not an experienced landlord and was entirely unaware of the obligation to lodge the Applicants' deposit in a regulated scheme until the Applicants representative brought this to her attention. The Respondent's position is that she did not receive the letter from the Applicants' representative dated 26 July 2021. Parties were given an opportunity to discuss matters directly but did not wish to do so. The Applicants' representative advised that he discussed matters with the Respondent by telephone on 25 August 2021 and the Respondent acknowledged receipt of the letter of 26 July 2021. The Respondent did not recall any telephone discussion with the Applicant's representative. In any event, the Respondent indicated that she was reluctantly prepared to repay the deposit of £675.
- [4] Findings in fact
- i. The parties entered into a tenancy dated 13 March 2018 in respect of the property.
 - ii. The Applicants paid a deposit of £675 to the Respondent by bank transfer at the outset of the tenancy.
 - iii. The Respondent failed to lodge the deposit in a regulated scheme.

Reason for Decision

- [5] The Tribunal proceeded on the basis of the written documents which were before it and the information provided by the parties at the case management discussion. The Respondent conceded that she had not paid the Applicants deposit into an approved scheme and advised that she was prepared to repay the deposit to the Applicants.

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.

Nicola Irvine

Legal Member/Chair

18 November 2021

Date