

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 Regulation 9 of the Tenancy Deposit Schemes (Regulations) 2011

Chamber Ref: FTS/HPC/PR/19/1461

Re: Property at 66 Rosemount Buildings, Edinburgh, EH3 8DD (“the Property”)

Parties:

Mr Syed Arslan Qadir, 8/14 Newton Street, Edinburgh, EH11 1TF (“the Applicant”)

Mr David Wray, 24/2 Howe Street, Edinburgh, EH3 6TG (“the Respondent”)

Tribunal Members:

Colin Dunipace (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order should be made by the Respondent in favour of the Applicant in the sum of One Thousand Four Hundred and Twenty Five Pounds (£1,425).

This matter called as a Case Management Discussion in George House, 126 George Street, Edinburgh, EH2 4HH on 2 August 2019. In attendance were the Appellant, MR Syed Arslan Qadir, and the Respondent, Mr David Wray.

The background to this Application related to a tenancy agreement between the parties in respect of the subjects at 66 Rosemount Buildings, Edinburgh, EH3 8DD, entered into between the parties on 13 November 2018. As a condition of this tenancy agreement the Applicant required to pay a deposit of £950 to the Respondent, and that this deposit was to be paid into an approved scheme. It is a matter of agreement between the parties that this deposit was paid by the Applicant.

Further it is a matter of agreement between the parties that the Respondent did not lodge this deposit with any approved deposit scheme within 30 days, and

in fact the deposit appears not to have been lodged at all with an approved scheme during the currency of the tenancy.

Having heard from the Applicant, I noted that the Applicant was seeking the full award on the basis that the deposit had still not been returned to him, and the failure to return the deposit had resulted in inconvenience to him as he tried to obtain a deposit to secure a further tenancy.

The Respondent thereafter advised that he accepted that he had not paid the deposit into an approved scheme, but that this had been due to an oversight on his part. The Respondent indicated that this had been a difficult tenancy and that he felt that there had been issues with damage to the property which required to be rectified by him. It is worth noting this this was disputed by the Applicant.

Findings in Fact

- The parties entered into a lease agreement in respect of the property at 66 Rosemount Buildings, Edinburgh, EH3 8RR on 13 November 2018. As a condition of this lease the Applicant paid the sum of £950 by way of deposit.
- This lease required the Respondent to lodge the aforementioned deposit within 30 days with an approved scheme within 30 days.
- The deposit was not lodged with an approved scheme.

Decision

Having heard from the parties, and having noted that the factual matters were not in dispute I determined that there was no requirement for a full hearing in the present case. It was accepted that the deposit had been paid by the Applicant, and also that the Respondent had not paid this sum into an approved scheme. I accordingly determined that an Order was accordingly appropriate.

Having heard from the parties I note that the failure to pay the deposit into an approved scheme was an oversight on the part of the Respondent. I noted that there were alleged issues with the tenancy, although these were matters which did not fall within the ambit of this Application. In all of the circumstances I have determined that the appropriate Order would be equivalent to deposit sum paid by the Applicant, together with a further sum equivalent to 50% of the deposit, and accordingly have determined that an Order should be made in the sum of £1,425 .

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.

Colin Dunipace

Legal Member

Date

2/8/19