

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 3(1) of The Tenancy Deposit Scheme (Scotland) Regulations 2011 for the purposes of Sections 120-122 of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/PR/18/2628

Re: Property at 6/1 Niddrie Mains Road, Edinburgh, EH16 4BG ("the Property")

Parties:

Mr Steven Arnell, 17 Muirhouse Parkway, Edinburgh, EH4 5JG ("the Applicant")

Miss Sarah - Jane Crilly, 6/1 Niddrie Mains Road, Edinburgh, EH16 4BG ("the Respondent")

Tribunal Members:

George Clark (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Respondent had failed to comply with the requirement, under Regulation 3(1) of The Tenancy Deposit Scheme (Scotland) Regulations 2011, to lodge a deposit with an approved tenancy deposit scheme and ordered that the Respondent should pay to the Applicant the sum of Four Hundred Pounds.

Background

By application, received by the Tribunal on 28 September 2018, the Applicant sought a payment order in respect of the Respondent's failure to lodge with an approved tenancy deposit scheme the deposit he had paid in respect of his tenancy of the Property. The tenancy had come to an end on 1 July 2018.

The Tribunal intimated to the Parties the date and place of a Case Management Discussion and the Respondent was invited to make written representations by 16 November 2018.

The Respondent made written representations to the Tribunal. She acknowledged that she had failed to secure the rental deposit in accordance with the Tenancy Deposit Scheme (Scotland) Regulations 2011 ("the 2011 Regulations"), but stated

balance and, whilst it could not speculate on how matters would have turned out if the deposit had been with an approved scheme, the Tribunal had to have regard to the fact that £95 of the deposit was at risk for more than two months.

The Tribunal determined that the Respondent had acted out of ignorance rather than with deliberate intent and that she had immediately repaid the balance whenever she had become aware of her legal obligations. Accordingly, the Tribunal considered that an order for payment of the sum of £400 was appropriate in all the circumstances of the case.

Decision

The Tribunal found that the Respondent had failed to comply with the duty imposed on landlords by Regulation 3(1) of the 2011 Regulations and ordered the Respondent to pay to the Applicant the sum of Four Hundred Pounds.

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.

Mr George Clark

Legal Member/Chair

22 November 2018

Date