



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (Regulations)

Chamber Ref: FTS/HPC/PR/18/2847

Re: Property at 69 Greenhead Road, Wishaw, ML2 8HZ (“the Property”)

Parties:

Miss Vicki Denton, 85 Hawthorne Drive, Wishaw, ML2 8JL (“the Applicant”)

Mr Robert Flannigan, 2A Calderbank Terrace, Motherwell (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent pay the sum of £900 to the Applicant.

Background

This is an application under Regulation 9 in respect of an alleged failure by the Respondent to pay the deposit into an approved tenancy deposit scheme.

The following documents were lodged with the application on 23 October 2018:

1. Tenancy Agreements dated 27 January 2017 and 1 August 2017;
2. Texts between the parties;
3. Mandate;
4. Print out from register of landlords.

The Applicant was presented and represented. The Respondent was present and had submitted a letter of 17 December 2018 which the Tribunal read.

Case Management Discussion (CMD)

Alan Strain

The case called for a CMD on 7 January. So far as material the Tribunal made the following findings in fact:

1. The Parties entered in to 2 tenancies from 27 January 2017 and 1 August 2017 respectively;
2. The Applicant paid a deposit of £450 at the commencement of the first tenancy;
3. The tenancy ended on or around 5 November 2018;
4. The deposit was repaid to the Applicant in full on or around 5 November 2018;
5. At no time during the tenancy was the deposit placed in an approved scheme.

The material facts were not in dispute. The Respondent asserted that he was in full time employment and was unaware of the requirement to place the deposit in an approved scheme. He informed the Tribunal that he had only rented this Property for around 4 years and the previous tenant had not paid a deposit.

He accepted he had rented out another Property in respect of which he had a My Deposit Scotland account at the request of his agent. He simply was unaware of the legal requirements.

Decision and Reasons

The Tribunal considered that it had sufficient information upon which to make a decision at this stage and it was fair to do so. Taking in to account the Respondent's admission and what he had to say by way of mitigation the Tribunal decided to make an award of 2 times the deposit in the circumstances.

The Tribunal considered that this amount was fair and reasonable, in accordance with the overriding objective and interests of justice.

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.

Alan Strain

Legal Member/Chair

Date

7 January 2019