

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
Scheme (Scotland) Regulations 2011**

Chamber Ref: FTS/HPC/PR/18/2911

**Re: Property at Flat 0/1, 19 Grantly Gardens, Shawlands, Glasgow, G41 3PZ
("the Property")**

Parties:

**Mr Christopher Murphy, Ms Catriona Hepburn, 58 Green Street, Rothes,
Aberlour, Moray, Ab38 7BD; 15 Shiphaugh Place, Stirling, FK1 1UZ ("the
Applicant")**

**Ms Lynn Henderson, 29 Dunglass, Scotstoun, Glasgow, G14 9ED ("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 to the Applicants the sum of
£1,000.**

Background

This is an application under Regulation 9 of the Regulations and Rule 103 of the Procedure Rules for an order in respect of the alleged failure by the Respondent to protect the deposit paid in respect of the Property.

The Tribunal had regard to the following documents:

1. Application received 25 October 2018;
2. Tenancy Agreement dated 18 February 2018;
3. Copy texts between the parties regarding return of the deposit.

Case Management Discussion (CMD) and Reasons

The case called for a CMD on 14 January 2019. The 2nd Applicant was present and authorised to represent the 1st Applicant. The Respondent was not present but was represented by Mr Iain Beveridge.

After hearing from both Parties and ascertaining that the material facts were not in dispute the Tribunal found the following facts to have been established:

1. The Parties entered in to a Tenancy Agreement dated 18 February 2018;
2. The Applicants paid a deposit of £500 in 2 parts. On 18 February 2018 £100 was paid with the balance of £400 paid on 1 March 2018;
3. The Tenancy Agreement provides for the deposit to be placed in an approved scheme;
4. The deposit was not and never was placed into an approved scheme;
5. The Respondent deducted an amount from the deposit following the end of the tenancy which was disputed;
6. The Respondent is an experienced landlord who has let this Property for 10 years and also lets another property;
7. The Respondent has experience of and has utilised tenancy deposit schemes;
8. Due to oversight on the Respondent's part the deposit was not placed in to a Scheme;
9. The Respondent was able to determine what sum to deduct from the deposit without the Applicant's agreement due to the failure to place the deposit in an approved scheme.

The Tribunal was satisfied that it had sufficient information before it to make a decision on the application and that it was fair to do so. Mr Beveridge was candid with regard to the Respondent's position as an experienced landlord and that this was an oversight on her part. He also tendered her apologies for this.

The Tribunal considered carefully all that was said and determined that an order should be made in the sum of two times the deposit (2 x £500). The Reason for this being that the Landlord was an experienced Landlord who had knowledge of the Regulations, had dealt with the various schemes over the years in respect of her 2 Properties and had determined what sum to deduct from the deposit despite the Applicant's opposition to this (which she would not have been able to do had she complied with the Regulations).

The Tribunal considered that the Order was in accordance with the overriding objective and the 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

14 Jan 2019.