

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 (Scotland) Regulations 2011**

Chamber Ref: FTS/HPC/PR/18/3229

**Re: Property at 6 Neilson Court, Hamilton, South Lanarkshire, ML3 7YP ("the
Property")**

Parties:

**Miss Natalie Martin, 17 Sutherland Crescent, Hamilton, South Lanarkshire, ML3
9SJ ("the Applicant")**

**Mrs Wendy Gibson, 1 Chestnut Crescent, Hamilton, South Lanarkshire ("the
Respondent")**

Tribunal Members:

Eleanor Mannion (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that an order should be made in the sum of £50
pursuant to Regulation 10 of the Tenancy Deposit Schemes (Scotland)
Regulations 2011.**

A case management discussion took place on Tuesday 19th March 2019. In attendance was the Applicant who was accompanied by Ann Healy, acting as a supporter to the Applicant. The Respondent was also present. Both parties represented themselves. The Respondent lodged a response on the 8th March which was copied to the Applicant and this was before the Tribunal at the case management discussion.

The Applicant confirmed that her tenancy began in 2016 and was informed at that time that her deposit would be put into a scheme and protected. At the end of her tenancy, she rang various deposit schemes to find that her deposit was not in fact protected. Her deposit was £712.50. Correspondence from the Applicant (which was enclosed with Form G) confirmed that she moved out of the property on the 24th November 2018. All but £50 of her deposit was returned to her after an inspection.

The application to the tribunal was dated 23rd November and was received by the tribunal offices on 29th November 2018. The Applicant was seeking an order in the sum of £50 plus interest and to ensure that the Respondent was fulfilling her duties in relation to deposits held for other tenants.

The Respondent confirmed that she has been a landlord since 2012 and has four properties which she rents out. She explained that some of her tenants did not pay a deposit due to their personal circumstances but confirmed that in respect of the Applicant this was a mistake on her part. She accepted that the law requires her to protect a tenants deposit and apologised for failing to do it here. She stated that this was not done maliciously but was an error on her part. She provided further documentation setting out the deposits for her other properties which are protected.

Both parties wished to make representations as to the amount of deposit that was withheld and the reasons for this. It was explained that the tribunal has no decision making power in that regard and so would not hear any detail on that issue.

Both parties indicated that the tribunal process was a stressful one.

Having considered the paperwork in both Form F and enclosures and the response submitted by the Respondent, and the acceptance in both the response and at the case management discussion this morning, I considered Regulation 10 which states that where the tribunal is satisfied that a landlord did not comply with their obligations, the tribunal must make an order for payment to the tenant. Taking into account the overriding objective of the tribunal rules of procedure, the sum of £50 plus interest sought by the Applicant and the admissions and acceptance made by the Respondent, I decided to make an order in the sum of £50.

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.

E Mannion

Legal Member

Date

19th March 2019