

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Regulations 9 and 10 Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the 2011 Regulations”)**

**Chamber Ref: FTS/HPC/PR/21/0118**

**Re: Property at 2/1 155 North Street, Glasgow, G3 7DA (“the Property”)**

**Parties:**

**Mr Rounak Saha, 1/2 149 North Street, Glasgow, G3 7DA (“the Applicant”)**

**Naveed Sattar, 44 Abbey Drive, Glasgow, G14 9JX (“the Respondent”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of the sum of £400 should be made in favour of the Applicant.**

**Background**

1. By application received on 18 January 2021, the Applicant seeks an order in terms of Regulation 9 and 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the 2011 Regulations”). The Applicant lodged a bank statement, a receipt from Easylets Glasgow Ltd and emails from Safe Deposits Scotland, Letting Protection Service and My Deposit Scotland in support of the application. The Tribunal attempted to serve a copy of the application on the Respondent. However, the address which had been provided was incorrect. The application was therefore served by advertisement on the Tribunal website. The Parties were advised that a case management discussion (“CMD”) would take place on 21 May 2021 at 10am by telephone conference call. However, when the CMD took place neither party participated. The Legal Member continued the CMD to a later date. The Applicant contacted the Tribunal and advised that there had been technical problems and he had been unable to join the call. The Tribunal issued a direction to Glasgow City Council which required them to provide information held regarding the Respondent. The Council

provided the Tribunal with the Respondent's current address, and a copy of the application was served on him at that address. The Parties were notified that a further CMD would take place by video conference on 13 October 2021 at 2pm.

2. The CMD took place by video conference on 13 October 2021. The Applicant participated and was represented by Ms Ghosh Roy. The Respondent was represented by his sister, Ms Iqbal. The Legal Member discussed the application with the parties and noted that they were agreed that a deposit had been paid by the Applicant to Easylets Glasgow Ltd in connection with his tenancy of the property. It was also accepted that this deposit had not been lodged in an approved scheme. Ms Iqbal advised the Legal Member that the Respondent had inherited the property from his father. He has never taken an active part in letting out of the property but had an agreement with Easylets that they would pay him a fixed sum every month and that they could let out the property. The agreement was a lease between the Respondent and Easylets. Following the discussion, the Legal Member determined that the CMD should be continued for the Respondent to produce a copy of the lease or agreement with Easylets.
3. The parties were notified that a further CMD would take place by video conference on the 1 December 2021 at 2pm. Prior to the CMD the Respondent lodged a document entitled "Lease agreement (Rent to Rent)". A letter from the Respondent was also lodged which states that he formerly owned the property, although it has recently been sold. The property had been purchased by his late father who dealt with it until his death. Since then, his sister and the company secretary of their father's business have dealt with the property on his behalf. It is his understanding that an agreement was made with Easylets and the revenue from this arrangement was deposited in the business account. He has had no personal input in the running of the property.
4. The CMD took place on 1 December at 2pm. The Applicant participated and was represented by Ms Ghosh Roy. The Respondent was represented by Ms Iqbal.

## **The CMD**

5. The Legal Member noted that the agreement which has been lodged is not signed or dated. The parties are identified as the Respondent and Easylets Glasgow Ltd. The agreement states that the start date is to be 1 April 2020 and will last for 3 years. The agreement also indicates that Easylets will pay the sum of £1000 per month to the Respondent for the property. They will not charge letting or management fees as it is a "rent to rent lease" with Easylets becoming the landlord of the property, finding tenants, and charging as they wish. The agreement is a relatively short document with further clauses relating to damage to the property and termination.
6. Ms Iqbal advised the Legal Member that Easylets have the original agreement, but it was never signed because of the pandemic. She had prepared the

agreement and sent it to them. The terms had been discussed and agreed by telephone. The property had been purchased by the Respondent's father and held in trust for the Respondent. Following his father's death in September 2019, the arrangement with Easylets had been made and they made payments in terms of the agreement. The Respondent has never had anything to do with the property and the rent was paid into the family business account. As a result of COVID 19 the rent payments stopped, and the Respondent then sold the property. Ms Iqbal has tried to contact Easylets about the application, but they have not responded. In response to questions from the Tribunal, Ms Iqbal said that the Respondent should not be on the Register of private landlords for the property, and that his father or the previous letting agent must have arranged his. Ms Iqbal advised the Legal Member that another brother also owns property and uses a similar rent to rent arrangement.

7. The Legal Member advised the parties that the unsigned and undated lease agreement which had been produced by the Respondent did not (in the absence of other evidence) establish that Easylets had become the landlord of the property. In the circumstances, the Legal Member indicated that the application would need to proceed to an evidential hearing so that evidence could be led on the issue of whether the Respondent was the Applicant's landlord and if the application had been made against the correct party. Ms Iqbal initially indicated that she might be able to provide further evidence, such as evidence of payments by Easylets to the Respondent and emails with them which referred to the arrangement. However, she subsequently advised that she did not wish to have the matter proceed to a hearing, that she may not be able to provide additional evidence and that the Respondent wished to withdraw his defence to the application and concede that the Applicant was entitled to an order against him. Following further discussion, Ms Iqbal confirmed that the defence to the application was withdrawn. The Legal Member advised that, as a tenancy deposit had been paid and not lodged in a scheme, an order must be granted. Ms Iqbal confirmed that she conceded that an order would be granted against the Respondent in terms of the 2011 Regulations
8. Ms Ghosh Roy advised the Legal Member that the tenancy had started in September 2020 and ended on 14 December 2020. The Respondent had asked Mr Ali of Easylets for a tenancy agreement, but he did not provide one. The Respondent required this so that he had proof of his address. Mr Ali then refused to allow Ms Ghosh Roy to become a joint tenant and said that they would have to move out. He changed the locks and charged the Applicant a further months' rent, refusing to allow him to collect his belongings until this was paid. They managed to secure alternative accommodation next door. Mr Ali refused to return the deposit, which has never been repaid. When the Respondent first asked about its return, Mr Ali said that he was the landlord. When the Respondent persisted, Mr Ali said that he was not the landlord. They sought advice from Shelter and the Respondent was identified as the landlord of the property. The Respondent has suffered a great deal of inconvenience and stress.

9. Ms Iqbal was invited to provide additional information about the Respondent and the circumstances of his failure to comply with the regulations but said that she had nothing further to add to what had been said already. She appreciated that the Legal Member had to disregard much of that information as the defence to which it related had been withdrawn.

### **Findings in Fact**

10. The Applicant is the former tenant of the property.
11. The tenancy started on 12 September 2020 and a deposit of £200 was paid on that date.
12. The Respondent is the owner and landlord of the property.
13. The tenancy terminated on 12 December 2020.
14. The deposit paid by the Applicant was not lodged in an approved tenancy deposit scheme.
15. The tenancy deposit has not been repaid to the Applicant.

### **Reasons for Decision**

16. Regulation 3 of the 2011 Regulations states –
- (1) A landlord who has received a tenancy deposit in connection with a relevant tenancy must, within 30 working days of the beginning of the tenancy –
- (a) Pay the deposit to the scheme administrator of an approved scheme; and
- (b) Provide the tenant with the information required under regulation 42.
- (1A) Paragraph (1) does not apply –
- (a) Where the tenancy comes to an end by virtue of section 48 or 50 of the Private Housing (Tenancies) (Scotland) Act 2016, and
- (b) The full amount of the tenancy deposit received by the landlord is returned to the tenant by the landlord,
- Within 30 working days of the beginning of the tenancy.
17. The Tribunal is satisfied that the Applicant's tenancy is a relevant tenancy in terms of the 2011 Regulations and that a deposit of £200 was paid and not

lodged in an approved deposit scheme. The application was received by the Tribunal on 18 January 2021. The Applicant has therefore complied with Regulation (9)(2) of the 2011 Regulations, which requires an application to be submitted no later than 3 months after the tenancy had ended.

18. Regulation 10 of the 2011 Regulations stipulates that if the Tribunal is satisfied that the landlord did not comply with a duty in terms of regulation 3, it “**(a) must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit.**” The Tribunal therefore determines that an order must be made in favour of the Applicant.
19. The Legal Member noted that there are several issues associated with the tenancy which are unsatisfactory. The Applicant was not provided with a tenancy agreement, although he had asked for this and required it as evidence of his address. The Applicant also appears to have been given contradictory information about the identity of his landlord and had to take advice from Shelter on this matter. The letting agent’s conduct at the end of the tenancy is of particular concern. However, although these are very serious issues, they are not relevant to the subject matter of the application.
20. The Legal Member notes that the tenancy was of short duration and the deposit paid was only £200. However, because the deposit was not being lodged in an approved scheme, the Applicant has been deprived of the opportunity to recover all or part of the deposit at the end of the tenancy. This has never been repaid. The Legal Member is therefore satisfied that there has been a serious breach of the regulations which has had financial consequences for the Applicant as well as causing him stress and inconvenience. From the limited information available, it appears that the Respondent was not an experienced landlord. He chose to place the property in the hands of a letting agent and took nothing further to do with the property. However, as the owner and landlord, he is responsible for the property and the actions of his agent. He ought to have exercised more care when selecting a letting agent and taken steps to ensure that all legal obligations were being fulfilled. In the circumstances the Legal Member is satisfied that an order for twice the deposit should be granted in favour of the Applicant, the sum of £400

## Decision

21. The Legal Member determines that an order for payment of the sum of £400 should be made in favour of the Applicant.

## 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.**

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**Josephine Bonnar, Legal Member**

**7 December 2021**