

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 (Regulations)**

Chamber Ref: FTS/HPC/PR/18/0747

Re: Property at 19/6 Lauriston Gardens, Edinburgh, EH3 9HH (“the Property”)

Parties:

Miss Robina Ricci, 8 Pf1 Drumdryan Street, Edinburgh, EH3 9LA (“the Applicant”)

Mr Jimmy Chan, 6 Littlejohn Avenue, Edinburgh, EH10 5TG (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent pay the sum of £1,300 (One Thousand Three Hundred Pounds) to the Applicant.

Background

This is an application under Regulation 9 of the Regulations for payment of compensation in respect of the Respondent’s alleged failure to protect the Deposit in terms of Regulation 3.

The case called for a Hearing on 19 October 2018.

Hearing

Both parties were present and gave evidence. The Applicant was represented by Mr Andrew McCloskey from Community Help and Advice Initiative.

The Respondent did not dispute the existence, term of the tenancy or the fact that the deposit had not been protected. He explained that he was a one time landlord

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and this had been his only long standing tenant. He was unaware of the requirements under the Regulations.

The Applicant's position was that 3 times the deposit should be paid in light of the Respondent's failure.

So far as material the Tribunal made the following findings in fact:

1. The Parties entered into a written tenancy agreement from 21 December 2001 until 22 January 2018;
2. The Applicant paid a deposit of £650 which was repaid following termination of the tenancy;
3. The deposit was never protected;
4. The Respondent was a one time landlord, this was his only tenancy and was unaware of the Regulations.

Decision and Reasons

The Tribunal considered the requirement under the Regulations. Clearly the deposit had never been protected. The Respondent was a one time landlord and unaware of the Regulations.

In terms of Regulation 10 the Tribunal had to make an award not exceeding 3 times the deposit. The Tribunal considered that it should not award the maximum in the circumstances of the case. The Tribunal determined that an award of 2 times the deposit was appropriate in the circumstances.

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

19 October 2018