



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/19/0980

Re: Property at 16 Rosebery Crescent, Gorebridge, EH23 4JR (“the Property”)

Parties:

Mr Campbell Taylor, 36 Dalmahoy Crescent, Balerno, EH14 7BX (“the Applicant”)

Mr Peter Innes, 9A Durham Place, Bonnyrigg, EH19 3EX (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent has breached his obligations under regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011.

Background

1. On 1 May 2018 the respondent let to the applicant the dwellinghouse at 16 Roseberry Crescent, Gorebridge. A Tenancy agreement was entered into which required payment of a deposit of £650.

The Case Management Discussion

2. Both the applicant and the respondent were present. The respondent said that the deposit was paid in two parts, so that he did not receive payment of the full deposit until three months into the period of let. The applicant agreed that there was a delay in the full payment of the deposit, but thought it was a much shorter delay. The respondent admitted that he did not pay the deposit into a deposit scheme and described his failure to do so as “*Wrong*”. Both parties asked me to dispose of this case today, without the need for a further hearing.

Findings in Fact

3. On 1 May 2018 the respondent agreed to let the dwellinghouse at 16 Roseberry Crescent to the applicant and one other. A tenancy agreement was entered into setting out the agreed rental and requiring a deposit of £650.
4. On taking entry the Applicant made a payment of £550 towards the deposit. He paid the balance of £100 three months later
5. The rental was due to be paid on the 1st day of the month, but was regularly paid in the middle of the month. The tenancy agreement provides for payment of a penalty each time the rental is late. The respondent did not enforce that penalty clause.
6. The applicant gave notice of termination of the tenancy and brought the tenancy to an end in February 2019. Within 12 days of the termination of the tenancy the respondent repaid the £650 deposit to the applicant.
7. The landlord did not pay the deposit into a tenancy deposit scheme. He is now aware of the requirement to do so. He regrets not paying the money into a deposit scheme and had no intention of depriving the applicant of repayment.

Reasons for Decision

8. The respondent admits that he did not pay the deposit into a deposit scheme and now understands that the 2011 regulations require him to do so. The Respondent repaid the deposit in full at the termination of the tenancy. He acknowledges his error. Both Parties ask me to dispose of this application on the agreed facts
9. The Applicant asked me to make a payment order of £650. The purpose of the order is to punish the respondent, not to enrich the applicant. The applicant has not suffered any loss. The respondent acknowledges his error and describes his omission as "wrong".
10. The purpose of the order is to punish the respondent; to mark societies displeasure; to protect society and to ensure the enforcement of the 2011 regulations in the future. The respondent has learnt from this experience and is not likely to ignore the 2011 regulations again.
11. The appropriate level of payment order is £25.

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent for payment to the applicant of twenty-five pounds (£25.00) within 14 days of service of this order.

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.

Mr Paul Doyle

12 June 2019

Legal Member