

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 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011

Chamber Ref: FTS/HPC/PR/18/0460

Re: Property at 15 Buchan Street, Hamilton, ML3 8JZ (“the Property”)

Parties:

Mr Norman Fraser, 61 Castlefern Road, Glasgow, G73 4AY (“the Applicant”)

Concept Property Lettings Limited, Glasgow, G74 4HQ, (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member), Elaine Munroe (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) dismissed the application.

Background

The Applicant submitted an application on 19th February 2018 seeking an order for payment in terms of Regulation 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011. A case management discussion took place on 14th May 2018. Reference is made to the note from that case management discussion and the notice of directions issued on the same date. The Tribunal issued letters to both parties on 18th September 2018 advising of the place, date and time of today's hearing. Parties were advised that they were required to attend today's hearing.

The Hearing

The Applicant was absent. The Respondent was represented by Mr James Docherty and Mrs Pauline Docherty. The Respondent's position was that the application should be dismissed for the following reasons:-

1. The wrong party has been convened. It was submitted that the Applicant's former landlord was Excel Properties and the Respondent was the managing agent in respect of that tenancy.
2. In terms of the 2011 Regulations, all landlords were obliged to pay deposits for existing tenancies into an approved scheme by 13th November 2012. The Respondent advised that the landlord paid the Applicant's deposit of £350 into an approved scheme (My Deposits Scotland) on 13th November 2012, although the sum did not credit the scheme's bank account until 14th November 2012.
3. The Applicant was provided with the Deposit Protection Certificate and the Prescribed information required by the Regulations.

Reason for Decision

In the absence of the Applicant and having heard from the Respondent's representative, the Tribunal was satisfied that the landlord complied with the 2011 Regulations. Tenancy Deposit Schemes became operational on 2 July 2012. From 2 October 2012, deposits taken in connection with new tenancies had to be lodged with an approved scheme within 30 days. In relation to existing deposits, which is the situation in the present case, landlords had until 13th November 2012 to pay the deposit into an approved scheme. The Tribunal proceeded on the basis of the written documents which were before it and the information provided by the Respondent's representative at the hearing.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Nicola Irvine

Legal Member/Chair

5th October 2018

Date