

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber)

**Decision by the Tribunal
In an Application under Regulation 10 of the Tenancy Deposit Schemes
(Scotland) Regulations 2011**

Chamber Ref: FTS/HPC/PR/18/2804

Re: Property at 10 Old Denny Road, Larbert, Fife, FK5 4SE ("the Property")

Parties:

Mrs Wendy Anderson, 31 Carronview, Larbert, Stenhousemuir, FK5 3HU ("the Applicant")

Mrs Dumps Stevenson, Riverbank House, Denny, FK6 6BL ("the Respondent")

Tribunal Members:

John McHugh (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") refuses to allow permission to appeal the Decision of 18 February 2019.

Reasons for Decision

On 18 February 2019 the Tribunal issued its Decision that the Respondent had failed to meet her obligations under the Tenancy Deposit Schemes (Scotland) Regulations 2011 and ordered that the Respondent must pay to the Applicant the sum of £300 such sum to be paid at the rate of £50 per month.

On 28 February 2019, the office of the Tribunal received a letter from the Applicant of the same date. The letter indicated that the Applicant wished to appeal against the Decision of 18 February 2019.

Any appeal first requires permission to appeal and the Tribunal accordingly treats the letter as an application for permission to appeal under section 46 of the Tribunals (Scotland) Act 2014.

Section 46 of the Tribunals (Scotland) Act 2014 provides:

"46 Appeal from the Tribunal

- (1) A decision of the First-tier Tribunal in any matter in a case before the Tribunal may be appealed to the Upper Tribunal.
- (2) An appeal under this section is to be made—
 - (a) by a party in the case,
 - (b) on a point of law only.
- (3) An appeal under this section requires the permission of—
 - (a) the First-tier Tribunal, or
 - (b) if the First-tier Tribunal refuses its permission, the Upper Tribunal.
- (4) Such permission may be given in relation to an appeal under this section only if the First-tier Tribunal or (as the case may be) the Upper Tribunal is satisfied that there are arguable grounds for the appeal..."

The letter of 28 February raises three factual issues where the Applicant is in disagreement with the Decision of 18 February 2019. These are: (1) that the Tribunal accepted the evidence given to it by the Respondent at the hearing that she had originally forgotten to place the deposit in an Approved Scheme but did so when she remembered; (2) that the Tribunal accepted the evidence given to it by the Respondent at the hearing that there had been damage to the property; and (3) that the Tribunal accepted the evidence given to it by the Respondent at the hearing that the Applicant stopped her rent payments without warning.

The Applicant states that these are factually incorrect and offers contrary assertions. The Applicant was not present at the hearing to offer contrary evidence. The Applicant's points all appear to be factual matters where there is a divergence between the parties as opposed to points of law.

Appeal of the Decision is only available on a point of law and the Tribunal has been unable to identify any substantial point of law arising in this application for permission

to appeal. The Tribunal is not satisfied that there are arguable grounds of Appeal and so permission to appeal is refused.

Appeals

This Decision is not open to appeal. It is, however, now open to the Applicant to apply to the Upper Tribunal for permission to appeal the Tribunal's Decision of 18 February 2019. Any such application for permission to appeal must be received by the Upper Tribunal within 30 days of the date upon which this Decision was sent to the Applicant.

Signed

A solid black rectangular box redacting the signature of John M Mchugh.

JOHN M MCHUGH

Chairing Member

Date 5 March 2019