

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 Rule 103 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/PR/18/3219

Re: Property at 26/6 Wardlaw Place, Edinburgh, EH11 1UQ (“the Property”)

Parties:

Mrs Irfana Begum Mohamed Saalim, 26/6 Wardlaw Place, Edinburgh, EH11 1UQ (“the Applicant”)

Mr Danish Iftikhar, 46 Sighthill Road, Edinburgh, EH11 4NY (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that no Order be granted.

Background

1. By application dated 27 November 2018 (“the Application”), the Applicant applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) for an Order in terms of Rule 103 of the Rules. Thereafter, a legal member of the Chamber, with delegated powers referred the Application to the Tribunal and a Case Management Discussion (“CMD”) was fixed for 25 January 2019 at George House, 126, George Street, Edinburgh EH2 4HH.

CMD

2. Both parties appeared at the CMD.
3. The Applicant advised that she had paid a deposit of £600.00 to the Respondent at the beginning of the tenancy and understood that the deposit had not been lodged in a statutory scheme by the Respondent.
4. The Respondent confirmed that the Applicant had paid a deposit of £600.00 to him at the beginning of the tenancy and confirmed that the deposit had not been lodged as required by the Tenancy Deposit Schemes (Scotland) Regulations 2011.

5. The Respondent went on to explain that he had not been aware of this requirement until he received service of the Application. He explained that he had since lodged the deposit with My Deposit Scotland and produced evidence of this, being a receipt from My Deposit Scotland dated 21 January 2019 showing that the deposit had been paid on 2 February 2018. The Respondent further produced his bank statement showing the deposit to be lodged in his savings account since February 2018 until it was uplifted and lodged with My Deposit Scotland. The Respondent advised me that he had posted a copy of the My Deposit Scotland receipt to the Applicant and provided proof of posting dated 24 January 2019.
6. The Applicant confirmed that she was, therefore, satisfied that the deposit was secure and lodged in a statutory scheme as required by the Tenancy Deposit Schemes (Scotland) Regulations 2011.

Decision and Reasons for Decision

7. I accepted the Respondent's position that he was unaware of the requirements of the Tenancy Deposit Schemes (Scotland) Regulations 2011 and that, as soon he became aware of this, had complied with those regulations.
8. The deposit of £600.00 now being lodged in a statutory scheme as required by the Tenancy Deposit Schemes (Scotland) Regulations 2011, there is no need for further proceedings or for me to make an Order in this respect.
9. The Respondent having evidenced that the deposit had been held by him from the date of his receipt of it until it was lodged, I found that there was no prejudice to the Applicant and so I did not make a punitive Order of compensation in this respect.

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.

Karen Moore

Legal Member/Chair

- 25 January 2019
Date