



**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/18/0930

Re: Property at 3 McLachlan Street, Stenhousemuir, FK5 3HJ (“the Property”)

Parties:

Mr Michael Bell, 2 Southlands Close, Moortown, Leeds, LS17 6JD (“the Applicant”)

Mr Paul Morrison, 13 South Broomage Avenue, Larbert, FK5 3LF (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

The Respondent should be ordered to pay the Applicant the sum of ONE THOUSAND ONE HUNDRED AND FIFTY-FIVE POUNDS STERLING (£1,155); and to pay the tenancy deposit to an approved scheme and provide the tenant with the information required under regulation 42(2)(b), (e) and (f).

- Background

The case concerns an application under reg. 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (‘the Regulations’). It called for a Case Management Discussion at 10am on 7 August 2018. The Applicant participated by conference call and the Respondent was present in person.

The Applicant confirmed that he was insisting on the sections of his application numbered 1., 2. and 3., which concerned orders in terms of reg. 10 of the Regulations. He was content not to insist on those sections numbered 4., 5. and 6.

The Respondent accepted that he had not placed the deposit in an approved deposit scheme. He stated that he was happy to be ordered to do so now.

The factual background, so far as relevant to the issues surrounding compliance with reg. 3 of the Regulations, was not in dispute. There remains considerable disagreement between the parties in regard to whether or not the deposit should be returned, but both parties accepted that that was not a question for the Tribunal to determine.

- Findings in Fact

1. That the Applicant had a tenancy at the Property commencing on 26 August 2016 and terminating on 23 March 2018. This tenancy was a relevant tenancy within the meaning of reg. 3 of the Regulations.
2. That in terms of that tenancy agreement, the Applicant paid a deposit of £385 to the Respondent.
3. That the Respondent did not pay said deposit to the scheme administrator of an approved scheme or provide the information required in terms of reg. 42 of the Regulations.
4. That, after the end of the tenancy and prior to raising the application, the Applicant contacted the Respondent on two occasions requesting compliance with reg. 3 of the Regulations.
5. That the Applicant raised the application on 18 April 2018.

- Reasons for Decision

It having been accepted by the Respondent that he had not complied with the duties in reg. 3(1) of the Regulations, the Tribunal must order payment to the Applicant of an amount not exceeding three times the tenancy deposit (reg. 10(a)). On the basis that the Respondent had had his non-compliance intimated to him and had not accepted that position or made any attempt to remedy it, necessitating an application to the Tribunal, I considered it appropriate for the maximum penalty to be applied.

Given the ongoing dispute between the parties in relation to whether, and to what extent, the deposit should be returned to the Applicant, I considered it appropriate that the Respondent be ordered to pay the deposit to an approved scheme and provide such information as remains relevant to the Applicant (reg.10(b)).

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.

Nairn Young

Legal Member/Chair

7 AUGUST 2018

Date