

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 The Tenancy Deposit Schemes (Scotland) Regulations 2011 ("the 2011 Regulations") pursuant to an application made under regulation 103 of the The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Regulations")

Chamber Ref: FTS/HPC/PR/19/1707

Re: Property at 8 Smeaton Court, Burns Road, Troon, KA10 7BX ("the Property")

Parties:

Miss Jennifer Miller, 31 Viewfield Court, Ayr, KA8 8JU ("the Applicant")

Mr James Spence, 5 Coral Glen, Maybole, KA19 7EB ("the Respondent")

Tribunal Members:

Graham Dunlop (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order for payment by the respondent to the applicant of the sum of £425 (Four Hundred and Twenty Five Pounds Sterling) should be made.

Background

1. The applicant sought an order for payment under regulation 9 of the 2011 Regulations due to the failure of the respondent to lodge a deposit in accordance with regulation 3 of the 2011 Regulations.
2. In support of the application the applicant lodged a receipt for payment of the deposit of £425, together with an undated letter from the respondent stating "I had not put the deposit in The Tenancy Deposit Scheme".

The Hearing

3. The applicant was in attendance and represented by Mrs McNaughton of Ayr Housing Aid Centre. The applicant was supported by Ms Malcomson. The respondent was in attendance and represented himself.
4. The applicant's representative submitted that an order for payment under the 2011 regulations should be made in accordance with the application and accompanying papers.
5. In response the respondent admitted that he had failed to lodge the deposit in accordance with the 2011 Regulations, and was unaware of the requirement to do so. The respondent explained he only ever owned one property as a landlord and that the applicant was his only tenant. The respondent has subsequently sold the property and is no longer a landlord.

Reasons for Decision

6. The Tribunal had regard to the mandatory provisions of the 2011 Regulations and that ignorance of the regulations does not afford a defence. The Tribunal recognised that the respondent had not wilfully ignored his legal obligations. The Tribunal also had regard to the respondent having been a landlord of one property at the relevant time and that he no longer owned any properties which are let.

Decision

7. The Tribunal made an order for payment of 1x the sum of the deposit, namely £425.

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.

Graham Dunlop

Legal Member/Chair

22nd August 2019

Date