

Housing and Property Chamber
First-tier Tribunal for Scotland



Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/PR/18/0284

Re: Property at 27 Ardfern Road, Airdrie, ML6 8NN (“the Property”)

Parties:

Miss Pamela Jack, 45 Glebe Crescent, Airdrie, ML6 7DH (“the Applicant”)

Miss Anita Marie Henderson, c/o Glen Fruin Place, Airdrie, ML6 8QD, (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) David Wilson (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an Order for payment in the sum of £550.

Background

The Applicant submitted an application on 28th January 2018 seeking an order for payment in terms of Regulation 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011. The Tribunal intimated the application to the Respondent on 29th June 2018 and assigned a case management discussion for 31st July 2018. A case management discussion took place on 31st July and reference is made to the note from that case management discussion.

The Hearing

The Applicant was present. The hearing proceeded in the absence of the Respondent, who had given notice to the Tribunal that she could not attend. The Tribunal raised with the Applicant the timing of termination of the tenancy. The

Applicant was uncertain about the termination date but advised that she moved out of the property on 29th September 2017 and returned the keys to the Respondent on 29th October 2017. The Tribunal was mindful that any application in terms of the Tenancy Deposit Scheme Regulations 2011 requires to be lodged within 3 months of the end of the tenancy. The Applicant invited the Tribunal to allow her application to be amended to proceed as a civil claim in terms of the Housing (Scotland) Act 2014. The Tribunal was satisfied that the factual basis would not be changed by that amendment. The Tribunal allowed the amendment in terms of Rule 13 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Amendment Regulations 2017.

The Tribunal was satisfied on the basis of the documentation lodged and what was said by the Applicant at the hearing that the deposit of £550 was paid by her to Raymond Logan, acting on behalf of the Respondent.

The Applicant advised the Tribunal that the Respondent told her that she would repay as much of the deposit back as quickly as she could. The Applicant advised that the Respondent then ceased all contact with her and failed to repay any of the deposit.

Findings in Fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement on 14th October 2010. The term of the tenancy was to be from 14th October 2010 to 13th April 2011.
2. The deposit paid by the Applicant in terms of that tenancy was £550.
3. The Respondent has not repaid that deposit to the Applicant.

Reason for Decision

The Tribunal proceeded on the basis of the written documents which were before it and the information provided by the Applicant at the hearing. There was nothing before the Tribunal challenging or disputing any of the evidence before it.

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

29.08.2018

Date