



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Regulation 11 of The Tenancy Deposit  
Schemes (Scotland) Regulations 2011**

**Chamber Ref: FTS/HPC/PR/18/0682**

**Re: Property at 53 Thorncroft Drive, Glasgow, G44 5HN (“the Property”)**

**Parties:**

**Ms Agnes Daly, 53 Thorncroft Drive, Glasgow, G44 5HN (“the Applicant”)**

**Edzell Property Management, 1008 Pollokshaws Road, Glasgow, G41 2HG  
 (“the Respondent”)**

**Tribunal Members:**

**Alison Kelly (Legal Member)**

The Hearing was attended by Agnes Daly, the Applicant, accompanied by her friend, Mikelea McKinley. The Respondent was represented by Richard Taylor, their in house counsel and property manager.

**Background**

The application had been brought by Agnes Daly, who had rented the property from Western Heritable Investment Company Ltd, now Western Heritable (Star) Ltd. The tenancy had commenced on 12<sup>th</sup> February 2001. At commencement of the tenancy Ms Daly had paid a deposit of £780.

The landlord was in the process of selling the property and on enquiring of the property manager, the Respondent, as to the whereabouts of her deposit she discovered that it had not been placed in an approved scheme.

The application was then brought by Ms Daly, assisted by Shelter Scotland.

**Case Management Discussion**

Ms Daly confirmed that she had vacated the property two weeks prior to today's hearing and is now renting another property in Glasgow. She confirmed that she had not received return of her deposit. She was seeking its return.

Mr Taylor told the Tribunal that The Respondents has purchased a property management business from J & A McTaggart around 7 years ago. J & A McTaggart were a subsidiary of Western Heritable and had managed rented properties on their behalf. The purchase was handled by Burness Solicitors. Deposits held had been handed over in one tranche of money. Mr Taylor was not with the Respondents at the time, but said that a reconciliation of these deposits was to be carried out. There is no dispute by Edzell that Ms Daly paid her deposit, but the reconciliation cannot be found.

Ms Daly told the Tribunal that she had contacted both the landlords and Edzell on numerous occasions, by email, in person and through Shelter. She felt that the standard of communication with Edzell had been very poor, and had caused her a great amount of stress. She had received little information about the sale of the property and no satisfactory answers regarding the deposit.

Mr Taylor was very candid and admitted that the level of communication had been poor. Given that Edzell could not identify the deposit they had taken the view that it was for Edzell to cover the cost of the deposit. Mr Taylor said that he made an arrangement with Ms Daly that she would hand in the keys to the property and he would make available a cheque for £780.

Ms Daly agreed that this had been the arrangement, but when her daughter had attended at Edzell's offices to hand in the keys, no one knew anything about it, and the cheque was not available.

Mr Taylor tendered the cheque to Ms Daly during the hearing.

The Tribunal asked Mr Taylor if he could confirm the date on which Edzell had taken over J & A McTaggart. He did not work for them at the time but thought it would have been around October 2011. The Tribunal pointed out that this would have been around the time that the Tenancy Deposit regulations came in to force, and there was much publicity about it. Mr Taylor could not comment.

Ms Daly said that she felt that the communication with Edzell had been horrendous, and Mr Taylor said that he couldn't disagree.

Ms Daly was seeking return of her deposit and accepted the cheque from Mr Taylor.

The tribunal pointed out that in terms of the regulations the responsibility lay with the landlord, but Mr Taylor confirmed that Edzell accepted responsibility.

The Tribunal decided to make an order for twice the amount of the deposit, and this was conveyed to the parties. Half of this sum was paid by cheque to Ms Daly by Mr Taylor at the hearing.

## **Findings in Fact**

1. The Applicant entered in to a tenancy agreement in relation to the property on 12<sup>th</sup> February 2001.

2. The Applicant paid a deposit of £780.
3. The deposit was not placed in an approved scheme in terms of The Tenancy Deposit (Scotland) Regulations 2011.

### **Reasons for Decision**

The deposit should have been placed in an approved scheme and had not been. Mr Taylor for the Respondent did not dispute this or attempt to provide excuses for either that or for the poor communication. The Tribunal considered it fair to order that £1560 be paid to the Applicant by the Respondent.

### **Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Respondent should pay to the Applicant the sum of £1560.

### **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.**

ALISON KELLY

**Legal Member/Chair**

J

**Date**

25/5/18