

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 Tenancy Deposit Schemes (Scotland) Regulations 2011

Chamber Ref: FTS/HPC/PR/18/2804

Re: Property at 10 Old Denny Road, Larbert, Fife, FK5 4SE (“the Property”)

Parties:

Mrs Wendy Anderson, 31 Carronview, Larbert, Stenhousemuir, FK5 3HU (“the Applicant”)

Mrs Dumps Stevenson, Riverbank House, Denny, FK6 6BL (“the Respondent”)

Tribunal Members:

John McHugh (Legal Member)

Decision (in absence of the Applicant)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent must pay the Applicant the sum of £300, such sum to be payable at the rate of £50 per month.

Background

The Applicant and the Respondent were tenant and landlord respectively in terms of a tenancy agreement dated 13 September 2015.

The Case Management Discussion

A Case Management Discussion took place at Fife Voluntary Action, Kirkcaldy on 18 February 2019.

The Applicant was contacted by telephone and confirmed that she was unable to attend but wanted the hearing to go ahead in her absence based on the documents which she had submitted. The Respondent attended in person and was assisted by Karen Mackinnon.

Findings in Fact

The Applicant and the Respondent were tenant and landlord respectively in terms of a tenancy agreement dated 13 September 2015.

The Applicant paid a deposit of £560 at the time she moved into the property in September 2015.

The Respondent paid the deposit into an approved scheme in June 2018.

Reasons for Decision

The Respondent accepts that the deposit should have been paid into an approved scheme in 2015. She had simply forgotten to do this against a background where she advises that the Applicant had been failing to meet her obligations as tenant.

When, in June 2018, she had realised that the deposit had not been paid into an approved scheme, as she accepts it should have been, she voluntarily placed the deposit into an approved scheme.

The Tribunal is obliged in terms of the Regulations to make an order for payment.

Having regard to the fact that the deposit was paid into an approved scheme before the commencement of the current application, the Tribunal considers that a relatively low payment should be ordered. In this case, the sum of £300 is appropriate.

The Respondent explained that she is very short of money. She complains that she has to carry out significant repairs to damage to the property, that she cannot secure a new tenant because she has an unpaid energy account relating to the tenant and that she has significant rent arrears arising from the Applicant's tenancy. She advises that she cannot afford to pay £300. She asked to be allowed to pay by instalments of £50/month.

There are no specific provisions in the Regulations allowing payment by instalments but equally none which fetter the Tribunal's discretion and so, in the particular circumstances of this case, the Tribunal is prepared to allow payment by instalments,

Decision

The Respondent has failed to comply with her obligation under Regulation 3 of the 2011 Regulations to pay the deposit into an approved scheme within 30 days of the tenancy commencing.

The Tribunal orders the Respondent to pay to the Applicant the sum of £300, such sum to be paid by monthly instalments of £50.

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.

J McHugh

John McHugh, Legal Member/Chair

18 February 2019

Date