

**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011**

**Chamber Ref: FTS/HPC/PR/19/0397**

**Re: Property at 244 Lanark Road, Edinburgh, EH14 2LR (“the Property”)**

**Parties:**

**Miss Nicole Hooper, 50/2 Whitson Road, Edinburgh, EH11 3BT (“the Applicant”)**

**Ms Mandy Morrison, 244 Lanark Road, Edinburgh, EH14 2LR (“the Respondent”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Ann Moore (Ordinary Member)**

**Decision (in absence of the Respondent)**

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

**This Application called for a Hearing at 10am on 30 May 2019 in George House, 126 George Street, Edinburgh, EH2 4HH.**

**The Applicant was personally present. There was no appearance by or on behalf of the Respondent. The Applicant had brought a witness to the Hearing to support her Application if required. The Respondent had failed to comply with the Directions made by the Tribunal at the Case Management Hearing on 18 April 2019. No written statement confirming the Respondent’s response and setting out any defence to the Application had been received.**

**The Tribunal noted that the only communication received from Respondent to date in respect of the Application had been the emailed request to postpone the Case Management Discussion that took place on 18 April 2019 and the wider representations contained within that email.**

**The Tribunal considered that there was no good reason not to proceed with the Hearing. The Tribunal then heard from the Applicant who stated that her position remained that she wanted the Tribunal to grant her Application.**

**The Tribunal heard evidence from the Applicant in respect of her position. The Tribunal had no reason not to consider her as anything other than a credible**

and reliable witness. She confirmed that she had paid a deposit to the Respondent in the sum of £650.00 at the commencement of her tenancy in the property which began on 13 September 2019. The Applicant confirmed that she had still to date, not received her deposit back. She also described situations where she would return to the Property during her tenancy and find that the Respondent had been in her room and left items, luggage for example, in her room. The Tribunal considered that it was clear from the Applicant's evidence that her time in the Property had not been a happy one and that it had been characterised by what the Applicant considered as odd and unsettling behaviour from the Respondent. It seems that the Applicant was only in the Property for a period of around three months because she was unwilling to tolerate living in such an environment and wanted to live elsewhere. The Tribunal also itself noted that the written tenancy agreement between the parties could be fairly described as unorthodox and certainly not drafted in what might be referred to as a professional manner. The Tribunal also heard from the Applicant that prior to making this Application, she had contacted the Respondent herself in an effort to resolve matters. She described the Respondent as generally avoiding the issue resulting in the present Application then being made.

The Tribunal adjourned to consider matters.

Having heard from the Applicant and having considered the written documentation before it, the Tribunal concluded that the Respondent was in breach of Regulation 3 of The Tenancy Deposit Schemes (Scotland) Regulations 2011 in that she failed to register the Applicant's deposit with an approved scheme.

The Tribunal was concerned that the Respondent had still not returned the deposit to the Applicant even though she was clearly aware of and had made representations of sorts to the Tribunal about the Application, albeit in the form of what was principally a postponement request.

The Tribunal considered that there was no mitigation before the Tribunal on behalf of the Respondent that could fairly be taken account of.

Accordingly the Tribunal, having considered all aspects of the Application decided to make an order in respect of Regulation 10 of the said Regulations, ordering the Respondent to pay the Applicant the sum of £1,950.00, being an amount equal to three times the value of the deposit.

## **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.

A McLaughlin

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**Legal Member/Chair**

30/5/19  
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**Date**