



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of the Housing (Scotland) Act 2006 section 121 and the Tenancy Deposit Schemes (Scotland) Regulations 2011 Chamber Ref: FTS/HPC/PR/18/0576

Re: Property at 79 Caudewayhead Road, Stirling, FK9 5EG (“the Property”)

Parties:

Miss Ashliegh Wright, 16 Allandale Crescent, Greenloaning, FK15 0LR (“the Applicant”)

Busby Properties Co.Ltd, Mill Works, Field Road, Busby, Glasgow, Lanarkshire, G76 8SE (“the Respondent”)

Tribunal Members:

Lesley Dowdalls (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Landlord is in breach of his obligations in terms of Regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“Regulation 3”).

Background

The Tribunal received an application from the Applicant in terms of Rule 103 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Rules 2017 on 7th March 2018.

The Applicant advised in the application that the tenancy had commenced on 1st September 2017. No contract or AT5 Form was provided. The Landlord did not place the deposit in any scheme or provide details when asked regarding the placing of the deposit in any scheme.

The deposit paid was £325, paid in April 2017.

The Applicant provided copy email correspondence ending the tenancy as at 1st March 2018 and requesting payment of the deposit.

The Landlord received notification of the application by letter of 19th April 2018. No response has been received by the Tribunal.

The Landlord received intimation of today's Case Management Discussion by Sheriff Officers on 20th April 2018. Certificate of Execution of Service is contained within the case papers. No response was received by the Tribunal.

The Case Management Discussion

The Landlord did not attend the Tribunal today and has made no written Representations.

The Applicant was in attendance, supported by her father. She provided the Tribunal with:

1. a copy of the tenancy agreement (in the name of her flatmate as her agreement had not been retained) and
2. a copy of email correspondence with the Landlord dated 30th June 2017 and 2nd July 2017 which confirms payment of deposit.

The Applicant provided oral evidence that she had checked each deposit scheme and there was no record of the deposit (an issue she had raised in correspondence with the Landlord). She attempted to address these issues with the Landlord, without success, directly before raising this application. She has not received any direct communication from the Landlord since lodging the application, and her deposit has not been returned to her. She did not receive any notification at the start of the tenancy on 1st September 2017 of the details of the rent deposit scheme into which the deposit had been paid. She has received no further information, despite requests, since the tenancy ended on 1st March 2018.

The Landlord has provided no evidence, either written or oral, to contradict the evidence of the Applicant.

Accordingly the Tribunal finds in fact:

1. The Applicant paid a deposit of £325 in April 2017 in respect of a tenancy in the property owned by the Landlord at 79 Causewayhead Road, Stirling FK9 5FG.
2. The start date of the tenancy was 1st September 2017
3. The end date of the tenancy was 1st March 2018
4. The Applicant did not receive notice from the Landlord of details of the rent deposit scheme into which the deposit has been paid
5. No evidence has been provided by the Landlord that he has met his duties in terms of Regulation 3
6. The Applicant provided notice to the Landlord in February 2018 of her intention to end the tenancy effective from 1st March 2018
7. The Deposit has not been repaid to the Applicant despite her requests

Decision

The Tribunal is satisfied that the Landlord has not complied with the duty in Regulation 3 to pay the deposit to the scheme administrator of an approved scheme, or with the duty to provide the tenant with the information required under Regulation 42. Accordingly, the Tribunal orders the Landlord in terms of Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 to make payment to the Applicant of the sum of £975, being 3 times the deposit.

The Tribunal considers this sum appropriate as the Landlord has breached fundamental duties in Regulation 3 to pay the deposit to an approved scheme and advise the tenant of the details of same, and of the information required in Regulation 42. He has also failed to respond to the Applicant's requests to resolve matters. He has made no representations to the Tribunal and has therefore not contradicted the information contained within the written application.

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.

LESLEY DOWDALLS

Legal member/Chair

Date

15th May 2018