



**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/20/0977**

**Re: Property at 17C King Street, Stirling, FK8 1DN (“the Property”)**

**Parties:**

**Miss Monika Peller, Mr Benedek Tatar, 5D IRVINE PLACE, STIRLING, FK8 1BZ  
 (“the Applicants”)**

**Mr David Moncur, Ms Diane Moncur, 50 Port Street, Stirling, FK8 2LJ (“the  
 Respondents”)**

**Tribunal Members:**

**John McHugh (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
 Tribunal”) determined that the Respondents have failed to comply with their  
 duty under Regulation 3 of the Tenancy Deposit Schemes (Scotland)  
 Regulations 2011 and should be ordered to pay the Applicant the sum of £800.**

**Background**

The Applicants were the tenant and the Respondents the landlord under a private residential tenancy of the Property dated 12 August 2019.

The Applicants complain that the Respondents failed to place their deposit in an approved scheme in accordance with their obligations under Regulation 3 of the 2011 Regulations.

## **The Case Management Discussion**

A Case Management Discussion ("CMD") took place by telephone conference on 19 August 2020. The Applicants were present. The Respondents were represented by their letting agent, Linda Patterson.

The parties agreed that the Applicants' deposit should have been placed in an approved scheme within 30 days of the tenancy commencing. The deposit had originally been paid to a different letting agent and had been transferred to a second letting agent acting on behalf of the Respondents. The second letting agent failed to realise that the sum transferred was the Applicants' deposit.

On 18 February 2020 the Applicants complained to the Respondents' letting agent that the deposit had not been placed in an approved scheme. The Respondents' letting agent apologised for the error and refunded the deposit the following day.

The Respondents also agreed to end the tenancy at a date which they say was two days early although the Applicants consider that the termination date was the correct one.

## **Findings in Fact**

The Applicants were the tenant and the Respondents the landlord under a private residential tenancy of the Property dated 12 August 2019.

The tenancy ended on 12 March 2020.

On 12 August 2019 the Applicants paid to the Respondents' letting agent a deposit of £862.50.

The deposit should have been placed in an approved scheme within 30 days.

It was never placed into an approved scheme.

The deposit was refunded to the Applicants on 19 February 2020.

## **Reasons for Decision**

It is accepted by the Respondents that they are in breach of their duty under Regulation 3. Having established that there has been a breach of Regulation 3, the Tribunal is obliged in terms of Regulation 10 to make an order requiring the Respondents to make a payment to the Applicants. An aggravating factor is that the deposit remained unprotected for around five months and that the matter was only addressed when the matter was raised by the Applicants. In the Respondents' favour is the fact that the deposit was promptly returned when the failure was pointed out and the Applicants have suffered no actual detriment. The Tribunal

regards this case as being of moderate seriousness and finds an award of £800 to be appropriate.

### **Decision**

**The Second Respondent should be ordered to pay the Applicant the sum of £800.**

### **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.**



**Legal Member/Chair**

**19 August 2020**  
**Date**