



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under the Housing (Scotland) Act 2006 section 121 and Regulation 9 the Tenancy Deposit Schemes (Scotland) Regulations 2011

Chamber Ref: FTS/HPC/PR/20/1200

Re: Property at 1/2, 95 Ruchill Street, Glasgow, G20 9QN (“the Property”)

Parties:

Miss Nicola Irvine, 52 Stratheden Heights, Newtownards, BT23 8TD (“the Applicant”)

Mr Colum Devlin, 30 Glendermere Heights, Newtonabbey, Co Antrim, BT36 6QZ (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision:

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent shall make payment to the Applicant in the sum of THREE HUNDRED AND NINETY FIVE POUNDS (£395) STIRLING.

Background

1. 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 15th May 2020.

The Case Management Discussion

2. A Case Management Discussion (“CMD”) was held on 20th August 2020 at 10am by teleconferencing due to Covid 19 restrictions. The Applicant was present and represented herself. The Respondent was present and represented himself. The Respondent had emailed the Tribunal on the day before the hearing to set out his position. The Applicant had received a copy of

the email. The Respondent had stated that he had not lodged the deposit in an approved scheme due to his own error. He has only this property and was 'an accidental landlord'. He spends much of his time in Ireland and England and has recognised that he needs help with the management of the Property. As such he has now instructed a letting agent to manage the Property going forward. Both parties agreed prior to the hearing that the deposit was not to be returned but used for payment of the last month's rent payment for April 2020. As such there was no dispute regarding the use of the deposit, the Tribunal did not find it appropriate to have the deposit lodged in an approved scheme to allow arbitration on any disputed issues. The Tribunal considered that one month's rent was an appropriate sanction. Both parties indicated that they were satisfied with this outcome.

Findings and reason for decision

3. The Applicant paid a deposit of £395 in respect of the tenancy.
4. The parties entered into a Short Assured Tenancy on 27th April 2017 to 1st October 2018 and continued on a month to month basis thereafter. The rent payments of £395 per calendar month which were due on 1st day of each month.
5. The Respondent did not pay the deposit into an approved scheme.
6. The Respondent confirmed that he did not meet his duties in terms of Regulation 3.
7. The Applicant left the Property in April 2020.
8. Both parties agreed to the deposit being used for payment of the rent due for the last month of the tenancy.

Reasons for Decision

9. The Respondent confirmed to the Tribunal that the deposit had not been paid into a Tenancy Deposit Scheme. He confirmed that he had erred in doing so. The Tribunal consider all the facts and circumstances before it and noted that the Respondent had confirmed his position, that he has only one property and that he was engaging the services of a letting agent to ensure that he did not err in his management of any future tenancies. The Tribunal decided that a fair, just and proportionate sanction would be to order the Respondent to pay the Applicant the amount of one times the amount of the deposit (£395).

Decision

10. The Tribunal awards payment to the Applicant by the Respondent in the sum of £395.

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.

Gabrielle Miller

20th August 2020

Legal Member/Chair

Date