



**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**

**Chamber Ref: FTS/HPC/PR/20/2433**

**Re: Property at 2F2 16 Brougham Street, Edinburgh, EH3 9JH (“the Property”)**

**Parties:**

**Miss Anna Stoilkovic, 224 Causewayside, Edinburgh, EH9 1PN (“the Applicant”)**

**Mr Jonathan Adair, 35 Lisnamurrican Road, Broughshane (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Landlord is in breach of her obligations in terms of Regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“Regulation 3”). The Respondent shall make payment to the Applicant in the sum of FIVE HUNDRED AND FIFTY POUNDS (£550) 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 11<sup>th</sup> November 2020.
2. The Applicant advised in the application that the tenancy had commenced on 1<sup>st</sup> July 2020. The tenancy is a Private Rented Tenancy (“PRT”) albeit that the actual tenancy was an Assured Shorthold Tenancy Agreement. This is not a Scots Law tenancy and the tenancy defaulted to a PRT.
3. The deposit paid was £550 on 8<sup>th</sup> June 2020

4. The Respondent did not place the deposit in any scheme or provide details when asked regarding the placing of the deposit in any scheme.

### **The Case Management Discussion**

5. A CMD was held on 8<sup>th</sup> February 2021 at 2pm by teleconferencing. Both the Applicant and Respondent attended the CMD and represented themselves.
6. The Applicant confirmed that she had paid a deposit of £550 on 8<sup>th</sup> June 2020. She confirmed that she had received a refund of her deposit on 6<sup>th</sup> February 2021. She considered that she had been through mental anguish due to the issues which she had with the Property. She had not been provided with the appropriate safety certification when she moved in. She felt that she had to leave the Property. She left on 31<sup>st</sup> October 2020. The Tribunal explained that the focus of the hearing was to determine if the Respondent had failed in his duty to put her deposit in an approved scheme.
7. The Respondent confirmed that he had not put the deposit in an approved scheme. He had not known that he had to albeit that he accepted that this was not a mitigating circumstance. The Property was one he had when he was at university. He no longer lived in Scotland. It is the only Property he owns. The Applicant had been his first tenant on a business relationship as he had let friends and family stay in the Property prior to that. The Respondent confirmed that in November 2020 he had given the Property over to a property agent to manage for him. He noted that he had all the safety certification but had not handed it over to the Applicant. While the Tribunal was relieved to hear that all the safety documentation was in order that was not a matter for this hearing.
8. Accordingly the Tribunal finds in fact:
  - a. The Applicant paid a deposit of £550 on 8<sup>th</sup> June 2020 in respect of a tenancy in the Property owned by the Respondent.
  - b. The start date of the tenancy was 1<sup>st</sup> July 2020.
  - c. The end date of the tenancy was 31<sup>st</sup> October 2020.
  - d. The Deposit has been repaid to the Applicant.
  - e. The Respondent accepts that the deposit was not paid into an approved scheme.

### **Decision**

9. The Respondent has a duty under Regulation 3 to place the deposit in an approved scheme within the specified time but failed to do so. The Respondent had recognised that he was not able to manage the Property by himself and had instructed a property agent. He has also repaid the deposit to the Applicant. The Tribunal decided that a fair, just and proportionate sanction would be to order the Respondent to pay the Applicant one times the amount of the deposit (£550).

## **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**

Gabrielle Miller

8<sup>th</sup> February 2021

---

Legal Member/Chair

---

Date