



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 (“the Regulations”) and Rule 103 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/PR/21/0790

Re: Property at Flat 2F1, 5 Lauriston Park, Edinburgh, EH3 9JA (“the Property”)

Parties:

Mr Jack Ridley, 4/10 Lindsay Road, Edinburgh, EH6 4EP (“the Applicant”)

Mr Khanna Narravula, address and whereabouts presently unknown (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Application be granted and an Order for Payment in the sum of TWO THOUSAND NINE HUNDRED AND TWENTY FIVE POUNDS (£2,925.00) STERLING be granted.

Background

1. By application received between 29 March 2021 and 22 April 2021 (“the Application”), the Applicant made an application to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Chamber”) for an Order in terms of Regulation 9 of the Regulations and Rule 103 of the Rules. The Application comprised an application form, copy tenancy agreement between the Parties, copy of the Applicant’s bank statements showing payment of the deposit and rent on 14 September 2020 and copy text

correspondence between the Parties showing the Applicant requesting details of where the deposit had been lodged and the Respondent stating that the Property was not subject to the Regulations.

2. On 28 April 2021, a legal member of the Chamber with delegated powers of the Chamber President accepted the Application and a Case Management Discussion ("CMD") was fixed for 10 June 2021. Intimation of that CMD on the Respondent was not effected and so a further CMD was fixed for 9 July 2021 at 11.30 by telephone conference call. The CMD was intimated to both Parties, service on the Respondent being effected by advertisement dated 3 June 2021.

CMD – Summary of Discussion

3. The CMD took place on 9 July 2021 at 11.30 by telephone conference call. The Applicant took part. The Respondent did not take part and was not represented.
4. The Applicant confirmed that the Property was occupied by him alone and that the Respondent did not reside there. He stated that, although the tenancy agreement mentioned shared services, no other person resided in the property and he occupied it alone.
5. The Applicant confirmed that the Respondent had not returned the deposit to him. The Tribunal explained that the terms of Regulation 9 of the Regulations and Rule 103 of the Rules did not allow any Order granted to include payment of the deposit and that he should consider making a separate application in terms of Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 and Rule 111 of the Rules.
6. The Tribunal advised the Applicant that, although the tenancy agreement entered into between him and the Respondent and the Respondent's correspondence both refer to a "short lets tenancy", the tenancy conforms to Sections 1 and 2 of the Private Housing (Tenancies) (Scotland) Act 2016, and so, the Regulations apply.

Findings in Fact

7. The Tribunal had regard to the Application and the Applicant's submissions at the CMD and The Tribunal found the following facts established:
 1. There had been a private residential tenancy between the Parties;
 2. The Applicant paid a tenancy deposit of £975.00 to the Respondent;
 3. Regulation 3 of the Regulations applied in respect of that private residential tenancy and the deposit;
 4. The Respondent failed to lodge the deposit with an approved scheme in terms of Regulation 3 (a) and
 5. As the Respondent failed to lodge the deposit with an approved scheme in terms of Regulation 3 (a), the Respondent also failed to notify the Applicant as required by Regulation 3 (b).

Decision and Reasons for Decision

8. The Tribunal, having made the above Findings in Fact, had no hesitation in determining that the Respondent had failed to comply with Regulation 3 of the Regulations. The Tribunal then had regard to Regulation 10 of the Regulations which

states that the Tribunal must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit.

9. In determining the extent of the Order, the Tribunal had regard to the Respondent's texts and admission that he had not complied with the Regulations and did not intend to do so and so had no intention of affording the Applicant any of the protection to which he was entitled by law. Accordingly, the Tribunal had no hesitation in awarding the maximum amount of three times the amount of the tenancy deposit being £2,925.00.

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.

Karen Moore

09/07/21

Legal Member/Chair

Date