

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/21/1825

Re: Property at 9/2 Newton House, 457 Sauchiehall Street, Glasgow, G2 3LG (“the Property”)

Parties:

Ms Cynthia Kow, 4/3 38A Bath Street, Glasgow, G2 1HG (“the Applicant”)

EE (Student Living) Ltd, 11 Broomgrove Road, Sheffield, S10 2LW (“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 TWO HUNDRED AND FIFTY POUNDS (£250) 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 dated 29th July 2021.
2. The Applicant advised in the application that the tenancy had commenced on 24th August 2019. The tenancy is a private rented tenancy. The Respondent did not place the deposit in any scheme.

3. The deposit paid was £250, paid on 25th February 2019.

The Case Management Discussion (“CMD”)

4. A CMD was held on 23rd September 2021 at 2pm by teleconferencing. The Applicant attended and represented herself. The Respondent did not attend but was represented by Ms Kirsty Lockhart, K Lettings.
5. Ms Lockhart told the Tribunal that she accepted that the deposit was not paid into an approved scheme within 30 days. The deposit was taken by a former employee. The deposit was discovered during a deposit audit. Ms Lockhart has now taken responsibility for the audit. She is training up another member of staff. There are procedures in place to prevent a deposit not being lodged in a scheme again. Deposits are now lodged on the day of receiving the deposit or the next day. This can be done remotely as there are appropriate cloud based systems in place.
6. The Applicant stated that she was not satisfied that she had not been notified that her deposit had not been lodged. She found out from her flatmates. Ms Lockhart took note of this and will consider processes going forward regarding notification.
7. The Tribunal was satisfied that the Respondent failed to lodge the deposit in an approved scheme within 30 days. However, the Tribunal noted that the Respondent’s letting agent have improved their systems to ensure that this does not happen again.
8. Accordingly the Tribunal finds in fact:
 - a. The Applicant paid a deposit of £250 on 25th February 2021.
 - b. The start date of the tenancy was 24th August 2019.
 - c. The end date of the tenancy was 7th June 2021.
 - d. The Applicant did not receive notice from the Respondent of details of the rent deposit scheme into which the deposit has been paid.
 - e. The Respondent’s agent accepted that the deposit was not lodged in an approved scheme within 30 days.

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’s agent has put procedures in place in order that this does not occur again. The deposit has been repaid 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 (£250).

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

23rd September 2021

Date