

**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/22/0791

**Re: Property at 10 Limekilns Road, Longniddry, East Lothian, EH32 0FU (“the
Property”)**

Parties:

**Mr Robert Kitching, Mrs Kirsty Kitching, 10 Limekilns Road, Longniddry, East
Lothian, EH32 0FU (“the Applicants”)**

**Lowther Homes Ltd, Wheatley House, 25 Cochrane Street, Glasgow, G1 1HL
 (“the Respondent”)**

Tribunal Members:

Nairn Young (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

- Background

This is an application for an order for payment of a sanction in relation to an alleged failure on the part of the Respondent to pay a tenancy deposit paid to it by the Applicant into an approved scheme and carry out the other duties incumbent on it in terms of reg.3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (‘the Regulations’). It called for a case management discussion (‘CMD’) at 10am on 8 June 2022, by teleconference. The second-named applicant was on the line and spoke on behalf of the Applicants. Nobody appeared on behalf of the Respondent.

The commencement of the CMD was delayed by 10 minutes, in case there was some technical issue; but there remained no contact.

The application, with notice of the CMD, was served on the Respondent on 28 April 2022, by sheriff officers. The Tribunal was therefore satisfied that the Respondent had chosen not to appear and that it was accordingly in the interests of justice to proceed in its absence.

- Findings in Fact

1. The Applicants rent the Property from the Respondent in terms of private residential tenancy with a start date of 4 November 2021.
2. In terms of that agreement, a deposit of £1,030 was paid to the Respondent by the Applicants on 5 November 2021.
3. The Respondent paid the deposit into an approved scheme on 14 January 2022.
4. On 17 January 2022, the Respondent wrote to the Applicants claiming that the deposit had been paid into an approved scheme on 7 December 2021 and providing the information required by reg.3 of the Regulations.
5. The Respondent has not engaged with the Applicants when they have attempted to establish what happened to the deposit, even following the raising of this application.
6. The Respondent is a business which operates as a landlord in various locations across Scotland.

- Reasons for Decision

7. The Respondent has shown a worrying disregard for the duties incumbent upon it as a landlord. This is evident not just from its complete failure to comply with the terms of reg.3 of the Regulations; but also from its attempt to claim that it had only failed in regard to the information provision duties, its failure to engage with the Applicants in addressing the matter and its disregard for the Tribunal process, which extended even to failing to appear at the CMD. These failings are made even more concerning by the fact that it is a company whose business it is to act as a landlord and that it does so in numerous locations.

8. In these circumstances, the Tribunal considered that only a sanction at the top end of the scale would be sufficient to reflect the gravity of the Respondent's failure. It therefore granted an order for payment to the Applicants of three times the deposit, or £3,090.

- Decision

Order made for payment by the Respondent to the Applicants of the sum of £3,090 (THREE THOUSAND AND NINETY POUNDS STERLING).

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.

Nairn Young

Legal Member/Chair

8 June 2022
Date