



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

Chamber Ref: FTS/HPC/PR/22/2323

Re: Property at Bual, Rams CRAIGS, Dunbeath, KW6 6EY (“the Property”)

Parties:

Dr David Carson, Joanna Carson, Hall Cottage, Reay, Thurso, KW14 7RE (“the Applicant”)

Dunbeath Partnership, Dunbeath Estate Office, Dunbeath Estate, Dunbeath, Caithness, KW6 6EY (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of both the Applicant and the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be dismissed.

Background

1. By application dated 4 July 2022 the Applicants applied to the Tribunal for an order under Regulations 9 and 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the 2011 Regulations”). The Applicants submitted copies of an email from Safe Deposits Scotland, a tenancy agreement and an email confirming the date of the end of the tenancy in support of the application.
2. By Notice of Acceptance dated 2 August 2022 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 24 August 2022.

4. By letter dated 24 August 2022 the Respondent submitted written representations to the Tribunal explaining the reasons for the delay in the Applicant's deposit being placed in an approved scheme and submitting the application should be dismissed.

The Case Management Discussion

5. A CMD was held by teleconference on 10 October 2022. Neither party attended or was represented. No explanation was provided as to their non-attendance.
6. The Tribunal considered the written submissions received from the parties. It appeared that the Applicant had been a previous tenant of the Respondent and had paid a deposit for another property that had been timeously placed in an approved scheme by the Respondent. When the tenancy ended and the Applicant moved to another property owned by the Respondent on 17 February 2021 no new deposit was paid by the Applicant. According to the Respondent the original deposit could not be transferred by Safe Deposits into a scheme under the new tenancy. Instead, the deposit was apparently returned to the Respondent with the consent of the Applicant on 7 April 2021. The Respondent then lodged the deposit with Safe Deposits on 6 May 2021 which would have been within 30 working days of its receipt although more than 30 working days after the commencement of the tenancy.
7. As neither party attended the CMD the Tribunal could not establish what if any issues remained in dispute or what facts if any were disputed. The Tribunal was satisfied that both parties had been given proper notice of the date and time of the CMD and had not provided any explanation for their non-attendance. In the circumstances the Tribunal determined that it should dismiss the application in terms of Rule 27(2) of the First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 as the Tribunal was unable to deal with the proceedings justly and fairly due to the lack of co-operation from the parties.

Decision

8. The application is dismissed.

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.

**Graham Harding
Legal Member/Chair**

**10 October 2022
Date**