



**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/22/4317

Property Address: 34/1F Leith Walk, Edinburgh EH6 5AA (“the property”)

The Parties: Miss Charlie Mackintosh, Mr Kyle Oakes, 2 Glendevon Paddocks, Edinburgh EH52 6WQ, 2 Glendevon Paddocks, Edinburgh EH52 6WQ (“the applicant”)

NS Properties Edinburgh Ltd, 6 Wardie Crescent, Edinburgh EH5 1AG (“the respondent”)

Tribunal members:

Mr Mark Thorley (Legal)

Decision (in absence of respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’) determined that an order for payment by the respondent to the applicant in the sum of £2,400 be made.

Background

1. The applicant applied to the First-tier Tribunal for Scotland (“the tribunal”) by application dated 20 October 2022.
2. Accompanying that application were the following documents:-
 - (a) Tenancy Agreement
 - (b) Receipt for deposit
 - (c) Email providing receipt for deposit
 - (d) Email detailing termination of tenancy
 - (e) Email detailing deposit scheme information

- (f) Notice terminating tenancy
- (g) Section 1 application

3. The application was received by the tribunal on 6 December 2022.
4. Certain further information was thereafter requested from the tribunal.
5. On 11 January 2023 the application was accepted for determination by the tribunal.
6. The application was served by sheriff officers 3 February 2023.
7. The respondent provided a written response on 14 February 2023.

Case Management Discussion

1. At the case management discussion the applicant attended. There was no appearance by or for the respondent.
2. The applicant set out details of the tenancy. The tenancy had commenced on 1 August 2021. The deposit had been paid on 22 July 2021 in the sum of £1,200. The money was not deposited into a safe deposit scheme until 19 October 2021. This was after the applicant provided intimation of the termination of the tenancy. The tenancy was to terminate on 10 November.
3. The deposit was returned to the applicant in full on 8 December.

Findings in Fact

1. The applicant rented the property at 34, 1F1 Leith Walk, Edinburgh with effect from 1 August 2021.
2. A deposit was paid to the respondent on 22 July 2021 in the sum of £1200.
3. The deposit was not put into a deposit scheme until on or about 19 October 2021 after intimation was given by the applicant to the respondent on 18 October of the termination of the tenancy.
4. The deposit was repaid to the applicant on 8 December 2022 in full.

Reasons for Decision

The applicant was able to establish that the deposit was unprotected from July 2021 to October 2022. The applicant had frequently requested that the respondent place the deposit in a protected scheme. The respondent lets multiple properties and must be aware of the requirement to secure deposits in the appropriate scheme. In mitigation the deposit was eventually placed in a scheme and was repaid to the applicant in full.

If the deposit had not been repaid in full this would have been a case at the extreme end of failures to deposit monies in the scheme. The mitigation was that the deposit was eventually placed in a scheme and that it was repaid in full. Accordingly an award of twice the deposit was appropriate in the circumstances.

Decision

To order the respondent pay to the applicant the sum of £2400

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.

M. Thorley

7 March 2023

Legal Member/Chair

Date

