

Housing and Property Chamber
First-tier Tribunal for Scotland



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/PR/21/3087

Re: Property at 2/2 13 Wellmeadow Street, Paisley, PA1 2EF (“the Property”)

Parties:

Miss Vanessa Lorientte, 49 Causeyside Street, Flat 1/1, Paisley, PA1 1YN (“the Applicant”)

Mr Carlo Milo, 63 Causeyside Street, Paisley, PA1 1YT (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member)

Decision (in absence of the Applicant)

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

BACKGROUND

1. By Lease dated 10th June 2020 the Respondent let the Property to the Applicant;
2. The start date of the tenancy was 12th June 2020;
3. In terms of Clause 11 of the Lease a tenancy deposit of £899.00 was to be paid. This amount was paid to the Respondent’s Letting Agents, Castle Residential, Paisley;
4. The tenancy deposit was not lodged with an Approved Tenancy Deposit Scheme until 23 December 2020;

5. The tenancy ended on 9 December 2021;
6. On 10 December 2021 the Applicant presented an Application to the Tribunal seeking an order in terms of Regulations 9 and 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011;

THE CASE MANAGEMENT DISCUSSION

7. A Case Management Discussions was assigned for 8 April 2022 at 10am to be held by way of teleconference. The Respondent did not participate personally in the Case Management Discussions but was represented by Miss J McLellan of Castle Residential, Paisley. Miss Daryl Harper attended as an observer;
8. The Applicant did not participate in the Case Management Discussion. The Tribunal was in receipt of a letter dated 22 February 2022 forwarded to the Applicant by the Tribunal advising her of the date and time of the Case Management Discussion and providing her with instructions to participate by way of teleconference. In the circumstances, the Tribunal was satisfied, in terms of Rule 24 of the First Tier Tribunal for Scotland Housing and Property Chamber (procedure) Regulations 2017 ("the FTT Regs"), that the Applicant had received intimation of the date and time of the Case Management Discussion;
9. The Legal Member of the Tribunal was made aware, shortly after 10am, that the Applicant had not joined the Case Management Discussion conference call. The Legal Member requested the Clerk of the Tribunal to telephone the Applicant to enquire as to whether there was any difficulty with her joining. The Applicant did not answer her telephone when the Clerk of the Tribunal attempted to make contact with her;
10. The Tribunal enquired of Miss McLellan as to her position in relation to the Case Management Discussion given that the Applicant had not participated. Miss McLellan made reference to written submissions which had been forwarded to the Tribunal in advance of the Case Management Discussion and thereafter stated the position orally to the Tribunal as follows:-
 - a) The tenancy deposit was received;
 - b) The tenancy deposit was not lodged with an approved Scheme within 30 days;
 - c) The tenancy deposit was lodged on 23 December 2020, approximately, 6 months after the commencement of the tenancy;
 - d) The Letting Agents had noted themselves that the deposit had not been lodged and immediately took steps to lodge it and inform the Applicant of the matter;
 - e) The oversight occurred during the Covid lockdown period in 2020 when there were significant staffing issues within their organisation caused by staff working from home and/or self-isolating;

- f) The Letting Agents thereafter reviewed their case management procedures to introduce more robust procedures to ensure that this situation did not arise again;
 - g) The Letting Agents reviewed their portfolio of managed properties and highlighted that, while they manage 900 properties, this appears to have been the only one in which such an oversight occurred;
 - h) The Letting Agents apologised for the oversight;
 - i) The tenancy has now ended and the deposit funds have been returned in full to the Applicant;
11. While the comments by the Respondent were noted by the Tribunal, given that the Applicant did not participate, there was no information before the Tribunal to contradict the submissions made by the Respondent;
12. Having considered the information provided, and having also noted that the Applicant had not participated in the Case Management Discussion and there was no motion before the Tribunal on the day of the Case Management Discussion for a penalty to be imposed, the Tribunal decided to dismiss the Application in terms of Rule 27 of the FTT regs on the basis that the Applicant had not co-operated with the First Tier Tribunal to such an extent that the Tribunal cannot deal with the proceedings justly and fairly;

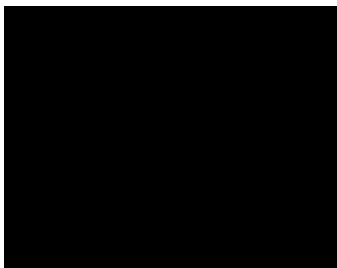
DECISION

The Tribunal dismissed the Application.

REASONS FOR DECISION

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

8th April 2022

Date

