

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) under Regulation 10 of the Tenancy Deposit
Schemes (Scotland) Regulations 2011**

Chamber Ref: FTS/HPC/PR/18/0771

Re: Property at Flat A, 41A New City Road, Glasgow, G4 9DE (“the Property”)

Parties:

Miss Victoria Nakamatte, Flat A, 41A New City Road, Glasgow, G4 9DE (“the Applicant”)

Mr Siu Chung Cho, 59 Dorchester Avenue, Glasgow, G12 0EH (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member)

Decision

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

- Background

This is an application under rule 103 of the Tribunal Rules of Procedure for payment of an amount in terms of regulation 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the Regulations”). It called at 10am on 12 September 2018 for a case management discussion.

- Findings in Fact

The following facts, so far as relevant, are accepted by both parties:

1. The Applicant rents the Property from the Respondent, in terms of a tenancy agreement which commenced on 1 September 2017. In terms of that agreement, a deposit of £680 was paid by the Applicant to the Respondent's mother (acting as his representative), at the date of commencement.

2. Neither the Respondent nor anyone on his behalf paid the deposit into an approved scheme, in terms of the Regulations. He and those acting for him were unaware of the requirement to do so.
 3. The Applicant raised this application on 3 April 2018. Prior to doing so, she had contacted the Respondent raising, among other issues, the question of whether the deposit had been paid to an approved scheme.
 4. The application was served upon the Respondent on 18 June 2018. He paid the deposit into an approved scheme on 21 June 2018.
- Reasons for Decision
5. The Respondent accepts that he has breached the terms of the regulations. While he was unaware of those terms, it is incumbent on landlords to make themselves aware of all legal duties they have towards their tenants before contracting with them. Notwithstanding that the issue was raised with him, he did not take action until the application to the Tribunal was made, putting the Applicant to considerable inconvenience.
 6. The Regulations state (at reg.10) that, if satisfied that a duty under reg.3 was not complied with, the Tribunal, "must order the landlord to pay an amount not exceeding three times the amount of the tenancy deposit." Taking into account the Respondent's acceptance of his failure and his action to rectify this, albeit somewhat tardily, I considered it fair, just and reasonable to require him to make a payment of £1,360, being two times the deposit, to the Applicant.
- Decision

That an order for payment of the sum of £1,360 (ONE THOUSAND THREE HUNDRED AND SIXTY POUNDS STERLING) by the Respondent to the Applicant be made.

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

17 SEPTEMBER 2018

Date