



Decision with Statement of Reasons of the First-tier Tribunal for Scotland under Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011

Chamber Ref: FTS/HPC/PR/18/2631

Re: Property at 7 Carsphairn Road, Dalmellington, KA6 7RE (“the Property”)

Parties:

Miss Carrie Newman, 32 Midcroft Avenue, Glasgow, G44 5RG (“the Applicant”)

Mr Christopher White, 9 Dalton Avenue, Dalmellington, KA6 7QR (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Applicant)

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

Background

An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 103 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment of the tenancy deposit in relation to an assured tenancy for the Property.

The Applicant stated that the tenancy deposit scheme regulations had not been complied with by the Respondent, that the deposit was being withheld, and further sums had been requested from the Applicant for apparent repairs and cleaning. The Applicant sought £1200, which was a sum three times the alleged deposit paid at the beginning of the tenancy, due to the Respondent’s apparent failure to protect the deposit.

Lodged with the application were the following documents,

- The tenancy agreement
- Commencement of tenancy Inventory List
- Written "requests and addressing" Statement
- Copy text from Respondent to Applicant

The Respondent lodged written representation which set out inter alia

- that he disputed that any deposit had ever been paid
- that the tenant was constantly in arrears of rent
- that there appeared to be a dispute over the termination date of the tenancy
- he narrated certain facts in response regarding repairs to the property and indicated that he had never sought recovery of any sums for alleged damage and /or repairs required to the property.

The Hearing/Case Management Discussion

The Applicant did not attend today's hearing. The Respondent attended today's hearing. The tribunal was not aware of any contact from the Applicant as to why she could not attend today's hearing.

The Respondent confirmed that it was his position that no deposit had been paid, he advised that he had bank statements and rent book to prove this, he advised that the Applicant was always in arrears although did start paying the rent, he never asked for any money for the repairs and had contacted the Applicant about certain damaged items in response to the Applicant had asked him if there was any repairs or damage.

Reasons for Decision

Rule 27 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides for dismissal of a parties case in circumstances, inter alia "*if the applicant has failed to co-operate with the First Tier Tribunal to such an extent that the First Tier Tribunal cannot deal with the proceedings justly and fairly.*"

I consider that as the Applicant failed to appear at today's hearing and as she has not provided any reasons for her failure, then I am unable to deal with the proceedings justly and fairly and accordingly, I consider that in all the circumstances I should dismiss the application.

Decision

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.

 M Barbour



Legal Member/Chair

18. 12. 2018

Date

*Insert or Delete as required