



**FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **LON/OOAR/HTC/2022/0010**

Property : **8 Wheatsheaf Road, Romford, Essex RM1 2HJ**

Applicant : **Ka Hin Karen MAK**

Respondent : **Amir Nviri**

Type of Application : **For repayment of holding deposit.**

Tribunal Members : **Judge Shepherd**

Date of decision : **21st October 2022 – Paper Decision**

DECISION

1. The Applicant in this case is seeking the repayment of a holding deposit that she paid to the Respondent on 8th of June 2022. The Applicant is Ka Hin Karen Mak and the Respondent is Amir Nviri. The Respondent runs a management agency called Nviri Homes Limited.
2. I have decided that the Respondent must repay the Applicant's holding deposit. My reasons for this decision are given below.
3. The salient background facts are the following. The Applicant saw an advert for a room in premises known as 8 Wheatsheaf Road Romford RM12HJ (The premises). She met the Applicant at the premises and they agreed that a tenancy would start on the 27th of June 2022. Thereafter the Applicant and the Respondent discussed the terms of the tenancy in correspondence. Items discussed included the length of the term and whether there was a cleaner for the communal areas in the premises. In any event the Applicant paid a holding deposit on the 8th of June 2022. Although she was shown a draft tenancy agreement the parties did not sign an agreement relating to the room in the premises and following a breakdown in relationship the Respondent notified the Applicant that he was putting the room back on the market on 24th June 2022. He told the Applicant that her tenancy deposit was non - refundable. The Applicant alleges that the Respondent had altered the terms originally advertised and the Respondent makes various allegations relating to the Applicant's conduct. None of these allegations or counter allegations are relevant to the central question of whether the Respondent is required to repay the deposit. To answer this question, one needs to look at the Tenant Fees Act 2019 ("The Act").
4. Section 3 of the Act defines *prohibited* and *permitted* payments. It states at section 3(1) that a payment is prohibited unless it is permitted by virtue of schedule 1 of the Act. Schedule 1 para 3 states that a holding deposit is a permitted payment and defines a holding deposit as *money which is paid by or on behalf of a tenant to a landlord or letting agent before the grant of a tenancy with the intention that it should be dealt with by the landlord or letting agent in accordance with schedule 2 which deals with treatment of a holding deposit.*
5. Whilst the holding deposit in the present case is on its face a permitted payment the Act still requires repayment of it. The key part of the Act is Schedule 2 para 3 which states:

subject as follows the person who received the holding deposit must repay it if... the landlord and tenant failed to enter into a tenancy agreement relating to the housing before the deadline for agreement.

6. The deadline for agreement is defined in paragraph 2 of the same schedule and is 15 days following the receipt of the holding deposit. In the present case that would equate to the 22nd of June 2022. At this date the parties had not entered into a tenancy agreement. In fact, the terms of the tenancy agreement were still being negotiated. Accordingly, the Respondent should have repaid the deposit by the 29th of June 2022 (see schedule 2 para 4 of the Act). The Applicant had requested repayment of the holding deposit but the Respondent had wrongly refused to repay it.
7. Under s.15(9) of the Act the Tribunal may order the Respondent to pay all or any part of the holding deposit within the period specified in the order. In the present case there is no reason for me to make any other order than the Respondent must repay the Applicant's holding deposit in full. This order will be enforceable by order of the county court as if the amount payable under the order were payable under an order of that court (see s.15(11) of the Act).
8. In summary I order that the Respondent must pay the Applicant £150 pounds by 4 pm on 31st October 2022.

Judge Shepherd

21st October 2022

ANNEX - RIGHTS OF APPEAL Appealing against the tribunal's decisions

1. A written application for permission must be made to the First-tier Tribunal at the Regional tribunal office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional tribunal office within 28 days after the date this decision is sent to the parties.
3. If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must state the grounds of appeal, and state the result the party making the application is seeking. All applications for permission to appeal will be considered on the papers
5. Any application to stay the effect of the decision must be made at the same time as the application for permission to appeal.