



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

Case reference : **LON/00BA/HTC/2023/0005**

**HMCTS code
(paper, video,
audio)** : **P: PAPERREMOTE**

Property : **35 London Road, London SW17 9JR**

Applicant : **Siobhan Edinboro**

Representative : **N/A**

Respondent : **Mark Mondell**

Representative : **N/A**

Type of application : **For recovery of all or part of a
prohibited payment or holding deposit:
Tenant Fees Act 2019**

Tribunal member : **Judge Tagliavini**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **12 July 2023**

DECISION

The tribunal's summary decision

1. The tribunal determines the respondent is to repay the sum of **£500** to the applicant by **22 July 2023**.
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BACKGROUND

2. This is an application for an order for the recovery of part of a holding deposit paid in respect of a tenancy of **35 London Road, London SW17 0JR**, pursuant to section 15 of the Tenant Fees Act 2019.
3. The application form and supporting documents appear to confirm that on **28 February 2022** the respondent received payment of **£500.00** from or on behalf of the applicant in respect of a prospective tenancy of the property.
4. The payment appears to be a holding deposit within the meaning of the Tenant Fees Act 2019 ('the 2019 Act') and the tribunal has jurisdiction to order recovery of all or part of that amount from the respondent.
5. Despite directions dated 12 May 2023 providing the respondent with an opportunity to send a response and supporting documents in answer to the application, the tribunal has not received any communication from the respondent.
6. Therefore, the tribunal determines the application on the documents received from the applicant.

The applicant's case

7. In the application, the applicant asserts that on 28 February 2028 a holding deposit of £500 was paid in respect of one room at premises situate at **35 London Road, London SW17 0JR**, while the respondent carried out tenancy checks. On 10 March 2028 the applicant requested the return of the holding deposit as the respondent had failed to indicate whether or not a tenancy was to be granted. On 13 March 2023 the respondent informed the applicant the holding deposit was non-refundable. No explanation has been received by the applicant from the respondent as to why the £500 holding deposit could be retained in totality or in part.
8. In the application, the applicant did not expressly state or provide a copy of a draft lease showing what the weekly or monthly rent payable was in respect of the subject premises. However, the applicant stated '*In the case of 35 London Road, one week's rent amount amounts to £196.15...*'

The tribunal's decision and reasons

9. The tribunal finds the sum of £500 is repayable by the respondent to the applicant.
10. The tribunal finds the respondent landlord required the applicant to pay a prohibited payment in breach of section 1(1) of the 2019 Act.
11. Paragraph 3 of Schedule 1 of the 2019 Act permits a landlord to require a holding deposit which:

(2) In this Act “holding deposit” means 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 (treatment of holding deposit).

(3) If the amount of the holding deposit exceeds one week's rent, the amount of the excess is a prohibited payment.

12. The tribunal finds the respondent wrongly demanded more than one week's rent as a holding deposit in breach of the provisions of the 2019 Act.
13. Further, the tribunal finds the parties failed to enter into a tenancy agreement by 15 March 2023 being the deadline for agreement pursuant to paragraph 2(1) of Schedule 2 of the 2019 Act.
14. Therefore, the tribunal finds the whole of the holding deposit of £500 is repayable to the applicant pursuant to paragraph 3 of Schedule 2 of the 2019 Act.
13. In conclusion, the respondent is required to re-pay to the applicant the sum of £500 in respect of the holding deposit paid in anticipation of a tenancy of the subject property. The sum of £500 is to be paid by the respondent to the applicant by **22 July 2023**.

Name: Judge Tagliavini

Date: 12 July 2023

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

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.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).