



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

**Case Reference** : LON/00AK/HTC/2024/0012

**Property** : 17 Lavender Hill, Enfield, EN2 0RD

**Applicant** : Alexandru Dobrovici

**Representative** :

**Respondent** : Anne Marie Banks

**Representative** :

**Type of Application** : Recovery of Prohibited Payment – Sections 15(3)(9) of the Tenant Fees Act 2019

**Tribunal Member(s)** : Judge Tildesley OBE

**Date and venue of the Hearing** : Decision on the papers

**Date of Decision** : 14 August 2024

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DECISION

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## **Senior President of Tribunals Practice Direction: Reasons for Decisions 4 June 2024**

1. This Practice Direction states basic and important principles on the giving of written reasons for decisions in the First-tier Tribunal. It is of general application throughout the First-tier Tribunal. It relates to the whole range of substantive and procedural decision-making in the Tribunal, by both judges and non-legal members. Accordingly, it must always be read and applied having regard to the particular nature of the decision in question and the particular circumstances in which that decision is made (paragraph 1).
2. Where reasons are given, they must always be adequate, clear, appropriately concise, and focused upon the principal controversial issues on which the outcome of the case has turned. To be adequate, the reasons for a judicial decision must explain to the parties why they have won and lost. The reasons must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the main issues in dispute. They must always enable an appellate body to understand why the decision was reached, so that it is able to assess whether the decision involved the making of an error on a point of law. These fundamental principles apply to the tribunals as well as to the courts (paragraph 5).
3. Providing adequate reasons does not usually require the First-tier Tribunal to identify all of the evidence relied upon in reaching its findings of fact, to elaborate at length its conclusions on any issue of law, or to express every step of its reasoning. The reasons provided for any decision should be proportionate, not only to the resources of the Tribunal, but to the significance and complexity of the issues that have to be decided. Reasons need refer only to the main issues and evidence in dispute, and explain how those issues essential to the Tribunal's conclusion have been resolved (paragraph 6).
4. Stating reasons at any greater length than is necessary in the particular case is not in the interests of justice. To do so is an inefficient use of judicial time, does not assist either the parties or an appellate court or tribunal, and is therefore inconsistent with the overriding objective. Providing concise reasons is to be encouraged. Adequate reasons for a substantive decision may often be short. In some cases a few succinct paragraphs will suffice. For a procedural decision the reasons required will usually be shorter (Paragraph 7).

### **Application**

5. The Applicant seeks under Section 15(3) of the Tenant Fees Act 2019 (“the 2019 Act”) for the recovery of a payment of a deposit in the sum of £950.

6. On 14 June 2024 the Tribunal directed the Application to be dealt with on the papers unless the parties requested a hearing. No such application was made. The Tribunal required the Respondent to provide a response to the Application which she failed to do. The Tribunal, therefore, proceeded to determine the Application on the documents supplied by the Applicant.

### **Decision**

7. **The Tribunal determines that the payment of £950 is a tenancy deposit which is a permitted payment under paragraph 2 of schedule 1 of the 2019 Act. The Tribunal makes NO order for payment of the £950.**

### **Reasons**

8. The stated aims of the Tenant Fees Act 2019 are to make renting fairer and more affordable for tenants by reducing costs at the outset of a tenancy, and to improve transparency and competition in the private rental market<sup>1</sup>.
9. The 2019 Act achieves its aims by placing restrictions on the type and extent of fees that landlords and agent can charge tenants. Under section 1(1) of the 2019 Act a landlord must not require a relevant person to make a prohibited payment to the landlord in connection with a tenancy of housing in England. Under section 3(1) a payment is prohibited unless it is a permitted payment by virtue of schedule 1 to the 2019 Act.
10. The payment of a tenancy deposit is a permitted payment but if the amount of the tenancy deposit exceeds the amount of five weeks rent where the annual rent in respect of the tenancy immediately after its grant is less than £50,000.00 the amount of the excess is a prohibited payment.
11. A tenancy deposit means money intended to be held (by a landlord or otherwise) as security for—(a) the performance of any obligations of a tenant, or (b) the discharge of any liability of a tenant, arising under or in connection with a tenancy. In short a tenancy deposit is a refundable payment which provides a landlord with security if the tenant breaks the terms of the tenancy agreement (paragraph 2(1) of schedule 1 2019 Act).
12. The payment of a holding deposit is a permitted payment provided the amount of the deposit does not exceed one week's rent.
13. A holding deposit means money paid by the tenant to a landlord before the grant of a tenancy for the purpose of reserving the

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<sup>1</sup> Tenant Fees Bill Explanatory Notes

property whilst reference checks and preparation for a tenancy agreement are undertaken

14. The 2019 Act applies to relevant persons which means a tenant (section 1(9)(a)).

15. The payment must be in connection with a tenancy of housing in England which includes a licence to occupy housing (section 28).

16. The Tribunal finds the following facts:

- i. The Applicant was permitted to occupy accommodation (shared area, and a bedroom) at 17 Lavender Hill, Enfield London EN2 0RD under the terms of a written lodger agreement. The agreement commenced 16 March 2023 with an end date of 16 August 2023. The Respondent was named as the landlord.
- ii. The agreement required the Applicant to pay rent of £950 per calendar month in advance.
- iii. Clause 6 of the agreement entitled “Deposit” required the Applicant to:

“On or before the start date a deposit of £ 950 will be paid by the Lodger to the Landlord. The Landlord will give the Lodger a receipt for the deposit.

The Landlord will be entitled at the end of the occupancy agreement to deduct from the deposit any sums due by the Lodger to cover the cost of repairing or replacing any broken, damaged or lost items and the expense of making good any failure by the Lodger to fulfil any other conditions of the occupancy agreement

The deposit or remainder of the deposit will be refunded to the Lodger within 14 days, or as soon as possible after the termination of the occupancy agreement. A list of deduction from the deposit will be attached where deductions have been made, notwithstanding fair wear and tear. Where deductions have been made from the deposit copies of receipts for any money deducted will be sent to the Lodger”.

- iv. On 16 March 2023 the Applicant paid the Respondent £950 in rent and £950 in respect of the deposit. The Applicant left the property after 24 days because the Respondent would not allow his daughter to stay occasionally. According to the Applicant, the Respondent promised to refund the deposit of £950 but despite frequent requests the Respondent has failed to do so.

17. The Tribunal is satisfied from the above facts that the deposit meets the definition of a tenancy deposit. The amount of £950 does not exceed five weeks rent. Therefore the payment of £950 is a permitted payment within the meaning of the 2019 Act.
18. The Tribunal's decision does not prevent the Applicant from pursuing other remedies before the Court to recover all or part of the deposit. The Tribunal suggests that the Applicant may wish to take legal action on other options to recover the deposit.

## **RIGHTS OF APPEAL**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.