



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

Case reference : **LON/00AU/HTC/2022/0004**

Property : **Flat 4, 118 Fairbridge Road
London N19 3HU**

Applicant : **L Marjory Ortiz**

Respondent : **Lighthouse Lettings**

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

Tribunal : **Judge Nicol
Mr S Johnson MRICS**

Date : **18th July 2022**

DECISION

The Respondent must repay to the Applicant the holding deposit of £207.69.

Reasons

1. On 25th March 2022 the Applicant signed a New Tenancy Application with the Respondent and paid a holding deposit equal to one week's rent, namely £207.69.
2. However, the Applicant decided not to go ahead when the Respondent insisted that she should pay her deposit and rent in advance before she signed the actual tenancy agreement. Now she would like her holding deposit returned. In accordance with the Tribunal's directions, this dispute has been decided on the papers, without a hearing.
3. Under paragraph 3(c) of Schedule 2 to the Tenant Fees Act 2019, the person who received the holding deposit must repay it if the landlord and the tenant fail to enter into a tenancy agreement before the deadline for agreement, subject to certain exceptions set out in the rest

of Schedule 2, including in paragraphs 10, 11 and 12. The deadline for agreement is defined in paragraph 2(1) as the 15th day of the period beginning with the day on which the holding deposit was received.

4. Both parties have sought to argue their cases on the basis that the exceptions in paragraphs 10-12 may be relevant. However, there is an additional requirement in paragraph 5 which both parties appear to have overlooked.
5. Under paragraph 5, the person who received the holding deposit must repay it if they believe that any of paragraphs 8-12 of Schedule 2 apply and they don't give the person who paid the deposit a notice in writing explaining why the holding deposit is not being repaid. In the case where the landlord and the tenant fail to enter into a tenancy agreement, that notice must be given within 7 days of the deadline for agreement, i.e. 22 days after the holding deposit was paid.
6. There is no evidence that either party was aware of the obligation to provide such notice, let alone that such notice was provided.
7. The Respondent did ultimately provide their reasons for retaining the holding deposit in an email to the Tribunal dated 27th June 2022 which constituted their statement of case for the purposes of these proceedings. However, that is a long time after the relevant period for the notice had expired.
8. The lack of such a notice within the relevant period means that the Respondent is obliged to repay the Applicant her holding deposit, irrespective of the rights and wrongs of the Applicant's decision not to proceed with the tenancy.

Name: Judge Nicol

Date: 18th July 2022