



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

Case reference : **LON/00AH/HTC/2022/0012**

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

Property : **40 Treves Close, London N21 1TT**

Applicant : **Cordelia Ogu**

Representative : **N/A**

Respondent : **Andrew Hunt Mortemore Mackay**

Representative : **N/A**

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

Tribunal member : **Judge Tagliavini**

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

Date of decision : **15 November 2022**

DECISION

The tribunal's summary decision

- (1) The tribunal finds that the respondent is not required to repay to the applicant the sum of £506.30 received as a holding deposit for the subject property at 40 Treves Close, London N21 1TT.**
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Background

1. In around July 2022, the applicant expressed an interest in taking an assured shorthold tenancy of 40 Treves Close, London N21 1TT ('the property') together with her two adult tenants at a rent of £2,200 per month. Subsequently, the applicant and her daughters Ms Shamain Ogu and Ms Stephanie Ogu each provided a signed permission dated 18/07/2022 to Let Alliance to carry out a credit check before the landlord agreed to let the property.
2. Subsequently, Ms Shamain Ogu was discovered to have an undisclosed County Court Judgment made against her. Consequently, the landlord refused to enter into a tenancy with the applicant and her daughters for the property and refused to return the holding deposit.

The applicant's case

3. In her application, the applicant states that it was intended that she was to be the sole tenant with her daughters helping her informally with rental payments. Therefore, she was entitled to the return of the holding deposit as the parties had failed to enter into a tenancy agreement before the specified date.

The respondent's case

4. In a statement dated 3 October 2022 stated that it was intended by the applicant that the tenancy was to be a joint tenancy in her name and that of her two daughters. Subsequently, the applicant and her daughters provided written permission for a credit check be carried out and a written explanation provided as to the circumstances in which the holding deposit might be retained.
5. Subsequently as the credit check for Ms Shamain Ogu showed that there was undischarged CCJ against her, the landlord declined to enter into a tenancy agreement with the applicant and her daughters. The landlord declined to return the holding deposit citing lost marketing time for the property as a result of it having been taken off the market

pending the credit checks which failed due to the false or misleading information provided by Ms Shamain Ogu.

The tribunal's decision and reasons

6. The tribunal finds that the tenancy of the property was intended to be a joint tenancy in the names of the applicant and her daughters Shamain and Stephanie Ogu. If the applicant had intended the tenancy to be in her sole name, then neither daughter would have been required to consent to a credit check being carried out as they would have no legal liability to pay or contribute towards the rent.
7. The relevant paragraphs of Schedule 2 of the Tenant Fees Act 2019 state:

Requirement to repay holding deposit

- 3 Subject as follows, the person who received the holding deposit must repay it if—

(a) the landlord and the tenant enter into a tenancy agreement relating to the housing,

(b) the landlord decides before the deadline for agreement not to enter into a tenancy agreement relating to the housing, or

(c) the landlord and the tenant fail to enter into a tenancy agreement relating to the housing before the deadline for agreement.

Exception

- 9 *Paragraph 3(b) or (c) does not apply if the tenant provides false or misleading information to the landlord or letting agent and—*

(a) the landlord is reasonably entitled to take into account the difference between the information provided by the tenant and the correct information in deciding whether to grant a tenancy to the tenant, or

(b) the landlord is reasonably entitled to take the tenant's action in providing false or misleading information into account in deciding whether to grant such a tenancy.

8. The tribunal finds that the exception provided by paragraph 9(b) applies and to decide not to enter into a tenancy agreement with the applicant and her daughters. Consequently, the tribunal finds the

applicant is not entitled to the return of the holding deposit. Therefore, the application is refused.

Name: Judge Tagliavini

Date: 15 November 2022

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).

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