

Misappropriation of funds, misleading information, poor service

Resolution requested:

- Deposit refunded - so it can be protected by the landlord
- Rent outstanding - passed across in full
- Future rent to be paid directly to the landlord
- Agent to stop managing the property
- Compensation

Resolved by: Proposed decision

What happened?

The landlord said:

- The agent answered her advertisement to rent out her flat, as she was moving abroad to work, saying they had a prospective tenant who was interested
- She arranged for keys to be sent to the agent so the prospective tenant could view the property, which the agent subsequently said went well
- It was agreed that, subject to checks and references, the let could go ahead
- The agent received the deposit and first months' rent, advising that the deposit had been protected. The first months' rent was kept by the agent for fees, inventory check and cleaning

- The next rent was not passed across by the agent, nor the one after that
- That after checking the documents and emails she:
 - a. had the impression her tenant was connected in some way to the agent and
 - b. discovered the company names on the website, contracts and emails all varied slightly in detail
- This led her to check the deposit protection but could not find it protected with any of the three schemes
- The last time she complained to the agent, they accepted that their communication was poor and that
 - a. the outstanding rent was in the process of being paid to her
 - b. she could be assured the security deposit was protected; saying that she must have searched with the wrong details and it has to stay protected until the tenancy ends
- Since then, a further two months' rent is outstanding and the agent has not responded to any calls, texts or emails

The agent responded, saying that:

- The scheme tried to contact the agent and got no response

What evidence was provided?

Emails, references, agency agreement, tenancy agreement, website screenshot

Note: We recognise that cases vary and the outcome will depend on the interpretation of the evidence provided.

What was decided and why?

1. As the agent refused to engage with the scheme, the case continued to proceed through our default process where the case officer considered all the landlord's evidence and concluded that:
 - i. The company information on the documents did all vary slightly and, on checking the company's status on the Companies House website, it was clear that while the complaint was being processed, the company had made an application to strike the company from Companies House books. The landlord was advised to immediately complete the 'objection to strike off' procedure on the website
 - ii. Rent – the landlord had provided email proof that the agent was yet to pay the rent across to the landlord. The case officer directed the agent to pay this money across in full as soon as possible
 - iii. Deposit protection - the agent was directed to provide proof of the protection to the landlord or refund the amount to the landlord who could protect it herself
 - iv. The agent should stop managing the property – direct the agent to terminate contract effectively any relationship with the landlord and allowing to receive the rent directly from the tenant
 - v. Compensation – the agent was directed to pay compensation of £100 for the poor service and mismanagement of the let

How can you avoid this happening in future?

There will always be the bad pennies amongst the good majority, and a situation such as this may be hard to spot; however our top tips are:

- *Do your due diligence and make sure you use an accredited agent;*
- *Maintain a good relationship with your agent*

- *At the first sign of a problem, not being resolved by the agent and/or you are being ignored, check the co status on the Companies House website, and if you are concerned make an objection request*

Be prepared that cases like these do often end up in court but for more information see our guide to '[Objecting to strike off](#)'

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