Housing and Property Chamber
First-tier Tribunal for Scotland

Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules)'in relation to an application for payment where a landlord has not paid the deposit into an approved scheme in terms of Rule 103 of the Procedure Rules.

Chamber Ref: FTS/HPC/PR/25/3785

Re: Flat 1/1, 706 Pollokshaws Road, Glasgow, G41 2AD ("the Property")

Parties:

Maria Cordero residing at flat 3/1, 6 Cathkinview Road, Glasgow, G42 9EH ("the First Applicant")

Darragh Maguire residing at flat 3/1, 6 Cathkinview Road, Glasgow, G42 9EH ("the Second Applicant")

Patricia Heraghty, residing at 96 Springkell Avenue, Glasgow, G41 4EL("the Respondent")

Tribunal Members: Jacqui Taylor (Legal Member) and Elaine Munroe (Ordinary Member)

1. Background

The Applicants submitted an application to the Tribunal for payment where a landlord has not paid the deposit into an approved scheme in terms of Rule 103 of the Procedure Rules, which application was dated 3rd September 2025 and was in the following terms:

'Deposit was not paid to approved scheme within allocated time. Tenancy start date was 8th September 2021 and deposit was lodged with Safe Deposits Scotland on 4th November 2021. Tenancy end date was 3rd July 2025.'

2. Documents lodged with the Tribunal with the Application

Documents lodged with the Tribunal by the Applicants were:

2.1 A copy of the Private Residential Tenancy Agreement between the parties dated 7th and 8th September 2021.

2.2 Email from the Applicants to the Respondents dated 2nd June 2025 advising that they intend to move out of the Property on 3rd July 2025.

3. Notice of Acceptance.

By Notice of Acceptance by Fiona Watson, Convener of the Tribunal, dated 15th September 2025, she intimated that she had decided to refer the application (which application paperwork comprised documents received between 3rd September 2025 and 10th September 2025) to a Tribunal.

4. The Case Management Discussion.

This case called for a conference call Case Management Discussion (CMD) Conference call at 14.00 on 23rd February 2026.

All parties attended.

4.1 Agreed Facts.

The parties agreed the following facts:

4.1.1 The lease agreement between the parties was a private residential tenancy agreement.

4.1.2 The Applicants had been Tenants of the property Flat 1/1, 706 Pollokshaws Road, Glasgow, G41 2AD.

4.1.3 The tenancy had started on 8th September 2021.

4.1.4 The tenancy had ended on 3rd July 2025.

4.1.5 The Respondent was owner and landlord of the property Flat 1/1, 706 Pollokshaws Road, Glasgow, G41 2AD.

4.1.6 The Applicants had paid the sum of £1390 to Clyde Property in payment of the deposit.

4.1.7 The deposit was lodged with Safe Deposit Scotland on 4th November 2021.

4.1.8 The deposit was lodged with Safe Deposit Scotland eleven days late.

4.1.9 After the end of the tenancy the deposit had ben repaid to the Applicants in full.

Ms Heraghty advised that she had sent written representations to the Tribunal 0n 28th January 2026. The Tribunal administration had sent her an email response which stated that they would not be crossed over to the Applicants or sent to the Tribunal members as they potentially contained sensitive/ confidential information. The Tribunal had asked her to confirm that she was happy for the written representations to be crossed over to the Applicants or to resend them but omit the sensitive/ confidential information. This had not happened. She confirmed that she was content for her written representations to be sent to the Applicants and the Tribunal without amendment.

4.2 **Outcome of the Case Management Discussion.**

The CMD was adjourned to a hearing to allow the Tribunal administration time to send the Respondent's written representations to the Tribunal members and the Applicants and also to allow the Applicant's time to consider them.

5. The Respondent's Written Representations.

5.1 The Respondent lodged written Representations with the Tribunal dated 28th January 2026 in the following terms:

'I am the landlord of Flat 1, 706 Pollokshaws Road, Glasgow G41 2AD. This response is provided in relation to the application made by my former tenants, Miss Cordero and Mr Maguire, regarding the late lodgement of the tenancy deposit. Miss Cordero and Mr Maguire entered into a Private Residential Tenancy for the above property on 8 September 2021. A tenancy deposit of £1390 was paid by them to Clyde Property, the letting agent I instructed to market the property and manage the commencement of the tenancy. I accept and regret that the deposit was not lodged with Safe Deposit Scotland within the statutory 30 day period. The deposit was lodged on 4 November 2021, which was eleven days late. I fully acknowledge responsibility for this breach. At the time, September 2021 marked the tail end of the Covid-19 pandemic. In addition to being a landlord, I am also a publican, and this period was exceptionally difficult as my business was reopening following prolonged restrictions. Due to these pressures, I had instructed Clyde Property to deal with the letting process and to ensure compliance with all regulatory requirements. The Landlord Guide I received from Clyde Property stated that they dealt with tenancy deposits, and I reasonably believed that this had been attended to. When I checked the relevant bank account shortly after the tenants moved in and noted that the deposit had not been transferred to me, I believed this confirmed that Clyde Property had lodged the deposit directly. It later became apparent that there had been confusion regarding responsibility for the deposit. On 12 October 2021, having realised that I had not received a Statement of Account from Clyde Property, I emailed them to clarify matters and also emailed Miss Cordero. Miss Cordero confirmed that £1390 had been paid and provided the receipt issued to her by Clyde Property. Around this time, I discovered that Clyde Property had paid the deposit into my account on 21 September 2021, some thirteen days after they had received it. On the same date, 12 October 2021, I suffered a sudden and severe medical reaction following a flu and Covid booster vaccination. This resulted in acute angioedema (facial swelling) and development of painful cutaneous granulomas. I required multiple GP consultations and was prescribed high dose, high strength

antihistamines but despite this my condition worsened as did the pain. My Son (who is himself a GP and checked in with me daily) had increasing concerns that I could potentially develop a compromised airway. Having had no response to the treatment prescribed by my GP I 2 ultimately consulted privately on 28 October 2021 and I was prescribed high-dose corticosteroids. I took these for a week, with a full recovery taking approximately two weeks. I enclose a copy of the private prescription together with a photo of myself taken at the time and if required I can request my GP records to confirm these events. This was a very distressing period for myself and my family, particularly with all of the negative press surrounding covid-19 vaccines at the time. I was in significant pain, extremely fatigued and my vision and ability to eat were impaired by the swelling, with symptoms only worsening despite the treatment prescribed by my GP. As soon as I had recovered sufficiently and was able to deal with outstanding matters, I lodged the deposit with Safe Deposit Scotland on 4 November 2021. I respectfully submit that the tenants suffered no financial loss or material prejudice as a result of the delay. They received an official receipt from Clyde Property confirming payment of the deposit, and the deposit was protected in full shortly thereafter. The tenancy lasted approximately 1395 days, of which only 11 days fell outside deposit protection. At no point did I derive any benefit from the delay, nor was there any realistic risk to the tenants' funds. I have been a landlord for over 20 years and have never previously been the subject of any complaint or enforcement action. I have always sought to comply with my legal obligations and to act responsibly as a landlord. Miss Cordero and Mr Maguire remained in the property for almost four years, and our relationship throughout the tenancy was amicable. Upon leaving the property on 2 July 2025, Miss Cordero sent me a message thanking me for everything. I appreciate that the regulations exist to protect tenants and I respectfully submit that the purpose of those regulations was fully met in this case despite the brief delay. I accept that the deposit was lodged late and I sincerely regret that, however as detailed above this was due to a combination of agent confusion, pandemic-related pressures and most significantly a serious and unforeseeable medical emergency. I respectfully ask the Tribunal to take these circumstances into account when considering the appropriate outcome.'

5.2 The Respondent lodged the following documents:

5.2.1 A copy of Clyde Property's Terms of Business letter, which includes a clause that states that they will hold the deposit as a Managing Agent and register it with an approved tenancy deposit scheme ensuring that you as landlord remain legally compliant as well as providing a faster and more professional deposit release at the end of a tenancy.

5.2.2 An email from the Respondent to the First Applicant dated 12th October 2021 confirming that she was sending the deposit to Safe Deposit Scotland.

5.2.3 A receipt from Clyde Property for one month's rent and the deposit of £1390.

5.2.4 A copy of the Respondent's bank statement which shows that the deposit was credited to her bank account on 21st September 2021.

5.2.5 A photograph of the Respondent's face.

5.2.6 A private prescription addressed to the Respondent.

5.2.7 A copy of the text message from the Applicant to the Respondent at the end of the tenancy dated 2nd July which say '*thanks a million for everything and let us know if you need anything from us.'*

6. The hearing.

This case called for a conference call hearing at 14.00 on 3rd July 2026.

All parties attended.

The purpose of the hearing was to enable the parties to address the Tribunal on the amount of the sanction due by the Respondent under Regulation 10 1(a) of the Tenancy Deposit Schemes (Scotland) Regulations 2011.

6.1 At the start of the hearing both parties confirmed that the agreed facts listed in the CMD note were correct.

6.2 Miss Cordero explained that herself and Mr Maguire are happy to leave the amount of the award to the discretion of the Tribunal.

6.3 Ms Heraghty referred the Tribunal to her written submissions that detailed the mitigating circumstances. In her view the Tribunal should make no award to the Applicants. She has been a landlord for twenty years and has never had a problem with a deposit before. She is struggling to understand why the Applicants have brought this application to the Tribunal. They had been tenants for four years, the rent had never been increased and they were happy when they left the Property. The deposit had never been in any risk. The Tenants were not aware that the deposit had not been lodged on time until after the end of the tenancy. They were not anxious that they wouldn't get their deposit back as they didn't know it hadn't been lodged on time. This situation happened at the tail end of covid which was a very difficult time for people in business. She had assumed that Clyde Property would lodge the deposit but that did not happen. Clyde Property took a while to send the deposit to her which also contributed to the delay.

7. Decision.

7.1 The tenancy was a relevant tenancy for the purposes of the 2011 Regulations.

7.2 The tenancy ended on 3rd July 2025 and the Applicant sent the application to the Tribunal on 3rd September 2025. The application had been made timeously.

7.3 The relevant sections of the Tenancy Deposit (Scotland) Regulations 2011 ('2011 Regulations'), as amended, provide:

Regulation 3.

3(1) A landlord who has received a tenancy deposit in connection with a relevant tenancy must, within 30 working days of the beginning of the tenancy—

(a)pay the deposit to the scheme administrator of an approved scheme; and

(b)provide the tenant with the information required under regulation 42.

Regulation 10

10(1)If satisfied that the landlord did not comply with any duty in regulation 3 the First-tier Tribunal—

(a)must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit.

7.4 The parties are agreed that the Respondent lodged the deposit with Safe Deposit Scotland eleven days late.

7.5 In assessing the level of sanction the Tribunal considered the following cases:-

7.5.1 Rollett v Mackie UTS/AP/19.0020.

In this case Sheriff Ross notes that "the decision under regulation 10 is highly fact-specific to each case" and that each case has to be examined on its own facts, upon which a discretionary decision requires to be made by the FtT. Assessment of what amounts to a 'serious' breach will vary from case to case – it is the factual matrix, not the description, which is relevant." In analysing the "factual matrix" in that case, Sheriff Ross noted that in assessing the level of a penalty charge, the question is one of culpability, and the level of penalty requires to reflect the level of culpability.

7.5.2 Ahmed v Russell 2023 S.L.T. (Tr) 33 FTS

In this case Sheriff Cruickshank found that the Tribunal should seek to assess a sanction that is "fair and proportionate" in all the circumstances, taking into account

both aggravating and mitigating circumstances. The level of sanction should mark the gravity of the breach which has occurred. The purpose is not to compensate the tenant.
7.6 The Tribunal in assessing the sanction level has to impose a fair, proportionate and just sanction in the circumstances, always having regard to the purpose of the 2011 Regulations and the gravity of the breach.

7.7 The Tribunal found the that the deposit had been unprotected for the period of eleven days and had been returned to the Tenants in full at the end of the tenancy. The Tenants were unaware that the deposit had not been lodged timeously before it was lodged with the tenancy deposit scheme. The Tenants had suffered no hardship as a result of the delay in lodging the deposit.

7.8 The Tribunal considered the Landlord's submissions in support of a nil sanction. The Tribunal accepts that the breach was unintentional, the Landlord was suffering stress and illness related to covid at the time the deposit should have been lodged with an approved scheme, there was confusion over whether the Landlord or Clyde Property would lodge the deposit and the Landlord is an experienced Landlord and this is the first time she has had an issue with lodging a tenancy deposit. The Tribunal also accepts that these are strong mitigating factors. The Tribunal finds that the Landlords' submissions support a lower scale of sanction but they are unable to award a nil sanction.

7.9 Not withstanding the mitigating factors the responsibility for complying with the Tenancy Deposit (Scotland) Regulations rests with the Landlord and the Landlord did not comply with the obligation on her in relation to the tenancy deposit. In the circumstances the Tribunal considers it to be fair, proportionate and just to sanction the Landlord for non compliance by awarding the Tenants the sum of £50.

7.10 The Tribunal orders the Landlord to pay the Tenant the sum of £ **£50** by way of sanction under Regulation 10 1(a) of the Tenancy Deposit Schemes (Scotland) Regulations 2011.

8. Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a

point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

J. Taylor

… … Legal Member 3rd July 2026