Housing and Property Chamber
First-tier Tribunal for Scotland

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Regulation 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011

Chamber Ref: FTS/HPC/PR/25/3973

Re: Property at 55 Bruntland Court, Portlethen, AB12 4UQ ("the Property")

Parties:

Miss Gemma McPherson, Callander House, Hillside, Portlethen, AB12 4RB ("the Applicant")

Bryan Hall-Thompson, UNKNOWN, UNKNOWN ("the Respondent")

Tribunal Members:

Melanie Barbour (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that there had been a breach of the Tenancy Deposit Schemes (Scotland) Regulations 2011, and it would make an order for payment of £50.00 in favour of the Applicant

Background Discussion

1. An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 103 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 ("the 2017 Rules") seeking an order against the landlord for failure to lodge a tenancy deposit.

2. The application contained:-

a. Tenancy agreement;
b. Evidence from an approved deposit scheme that they held the deposit for the property, but that it was lodged outwith the 30 working day period.

3. The case called for a case management discussion (CMD) on 7 July 2026. The applicant appeared. The letting agent, Mr Oguntundo, appeared on behalf of the respondent.

Discussion

4. Both parties agreed that the tenancy deposit had been lodged with an approved scheme. They also both agreed it had been lodged outwith the 30 working day period. The applicant had not calculated how many working days it was lodged late; however, she did not dispute the respondent's agent's explanation that it should have been lodged by Friday 7 August 2020. The agent advised it had been deposited on 11 August and processed by the approved scheme over two days and was shown as paid on 13 August 2020. It was therefore 4 working days outwith the 30 working day rule.

5. The applicant advised that she had paid the tenancy deposit. After she had left the tenancy, she had received a letter from Safe Deposits Scotland. They had advised that the deposit had been lodged outwith the 30 working day period and that she would be entitled to make an application to the tribunal due to this breach. She confirmed that the deposit had been returned in full to her at the end of the tenancy.

6. The letting agent on behalf of the respondent advised that they had been the letting agent at the time that the tenancy commenced and the deposit had been paid. It was accepted by the letting agent and the respondent that the deposit had been put into an approved scheme outwith the 30 working days. They were therefore in breach of the regulations. He advised that it was the letting agents who had secured the deposit into the approved scheme. He submitted that the deposit should have been submitted by Friday 7 August 2020. It was lodged on Tuesday 11 August 2020, and he submitted it was therefore 2 days late in being

lodged. In mitigation, he advised that the tenancy commenced during the COVID pandemic. The employee who was in charge of lodging deposits had been off sick. Another officer picked up that this deposit had been overlooked and it was lodged at that time. The tenancy ended in July 2025, and the deposit has been returned in full. He said that there could have been deductions from the deposit. However, given this error, it had been decided that there would be no request to retain any of the deposit. The letting agent submitted that there was no intention not to lodge the deposit into an approved scheme. He advised that the letting agents have experience of lodging deposits; they adhere to the regulations, and there had only been one other time in 2019 when they had been late in lodging a deposit; on that occasion it had been lodged in time but the two days taken to process it meant they were in breach of the regulations.

7. The applicant advised that she accepted that mistakes can occur; however, the regulations require that a deposit be deposited on time, and in this case the respondent had fallen foul of the regulations, and it had been deposited late, and during that period her deposit had not been protected. The letting agent should have ensured that the deposit was lodged timeously.

Findings in Fact

8. The Tribunal made the following findings in fact:-

9. The Respondent Bryan Hall-Thompson was the landlord,

10. The Applicant, Gemma McPherson, was the tenant.

11. The parties entered into a tenancy agreement.

12. The tenancy had commenced on 27 June 2020.

13. The Applicant had paid the Respondent a tenancy deposit before the tenancy commenced.

14. The deposit was for £1000.00.

15. The deposit was placed in an approved scheme on 13 August 2020. Parties agreed this was 4 working days outwith the 30 working day requirement.

16. The tenancy ended on around 8 July 2025.

17. The application had been submitted to the tribunal on 16 September 2025. It was submitted within 3 months of the tenancy ending.

18. The tenancy had been returned to the tenant at the end of the tenancy.

19. The tenancy deposit paid by the applicant had not been lodged with an approved tenancy deposit scheme within 30 working days of the tenancy commencing.

Discussion

20. The Tenancy Deposit Schemes (Scotland) Regulations 2011 set out a number of legal requirements in relation to the holding of deposits, and relevant to this case are the following regulations:-

    Duties in relation to tenancy deposits
    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.

Sanctions

9.— (1) A tenant who has paid a tenancy deposit may apply to the [First-tier Tribunal] 1 for an order under regulation 10 where the landlord did not comply with any duty in regulation 3 in respect of that tenancy deposit. (2) An application under paragraph (1) must be made […]2 no later than 3 months after the tenancy has ended.

10. If satisfied that the landlord did not comply with any duty in regulation 3 the [First-tier Tribunal] 1 — (a) must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit; and (b) may, as the [First-tier Tribunal] 1 considers appropriate in the circumstances of the application, order the landlord to— (i) pay the tenancy deposit to an approved scheme; or (ii) provide the tenant with the information required under regulation 42.

21. The tenancy deposit regulations apply in this case. The landlord received a deposit in connection with a relevant tenancy. They had a duty to therefore place it into an approved scheme. They did not do so in accordance with the regulations. Given this breach, the tribunal is required to order the landlord to pay the tenant an amount not exceeding three times the tenancy deposit.

22. The deposit was lodged in an approved scheme, but this was done 4 working days outwith the statutory time limits. The letting agent appeared for the landlord; he advised that the landlord had admitted the breach. The breach had been caused by the letting agent. It was due to working conditions having been more difficult during the COVID pandemic and the ill health of the staff member who was in charge of lodging the deposits into approved schemes. When they noted this mistake, they addressed it, and the deposit was lodged 2 working days late, although it was not processed by the approved scheme until 13 August, meaning that it was not formally noted to be in an approved scheme until 13 August, 4 working days outwith the 30 working day period. The letting agent advised that they had experience in lodging deposits and they have only one other error in doing so in 2019, when it had been lodged on the 30 working

days but not processed for two days and was therefore 2 days late. Other than that, they had not fallen foul of the regulations. The tenant accepted that mistakes happened; however, she asserted that the regulations should have been followed. They had 30 working days to do so, and they failed to secure her deposit in time.

23. When deciding on the amount of the award, the tribunal has to take into account that the sanction is to mark the gravity of the offence; it is not paid as compensation; the assessment should be fair and proportionate; and there should be an assessment of mitigating and aggravating factors.

24. I consider that this breach is at the lower end of the scale. In assessing the relevant factors:

25. Mitigating factors are: that the breach was for a short period of 4 working days. The landlord admitted the breach. The landlord had instructed letting agents to lodge the deposit; it was the letting agent who had made the mistake. They confirmed that they were experienced in lodging deposits and had only failed to lodge a deposit in time in 2019, for a period of two days on one other occasion. They appreciated what the regulations required; to lodge the deposit in an approved scheme in time. This error occurred due to COVID and their member of staff being ill. Once they had noted the failure, they had remedied it immediately. The landlord advised the breach had taken place due to human error only, and there was no malice. It did not appear that there had been any prejudice to the tenant in terms of the short time period when there had been a failure to lodge the deposit in an approved scheme.

26. In terms of aggravating matters in this case. I find the following are aggravating factors: The letting agent instructed by the landlord was an experienced letting agent and was aware of the duties and requirements to lodge a tenancy deposit within 30 working days.

27. The regulations require me to make an order in the event of breach; for all of the reasons I have set out above, I consider that the failure to lodge the deposit was unintentional and caused by a basic human error. The agent for the landlord knew that he had an obligation to put the deposit into the scheme, had made a mistake, had rectified it quickly and placed the deposit into an approved scheme. It has caused minimal detriment to the applicant. In all the circumstances, I consider that this was not a serious breach of the regulations and I should therefore make an award of £50.00.

Decision

28. The Tribunal determined that there had been a breach of the Tenancy Deposit Scheme (Scotland) Regulations 2011, and it would make an order for payment of £50.00 in favour of the Applicant.

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.

M Barbour

	7 July 2026
Legal Member/Chair	**Date**