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 Section Regulation 10 of the Tenancy Deposit Scheme (Scotland) Regulations 2011 ("the 2011 Regulations")

Chamber Ref: FTS/HPC/PR/26/0534

Re: Property at 203 The Combworks, 455 George Street, Aberdeen, AB25 3YB ("the Property")

Parties:

Mr Oluwatunkorede Iyi-Ojo, 203 The Combworks, 455 George Street, Aberdeen, AB25 3YB ("the Applicant")

Aberdeen Student Housing Management Sarl, C/O Student Housing Operations Limited, 6 Arne Street, London, WC2E 9FE ("the Respondent")

Tribunal Members:

Elaine Paton (Legal Member)

Decision (in absence of the Applicant and the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Respondent had breached Regulation 3 of the Tenancy Deposit Scheme (Scotland) Regulations 2011 ("the 2011 Regulations"). The Tribunal therefore determined to make an order for payment in the sum ONE HUNDRED AND FIFTY POUNDS (£150) Sterling under Regulation 10.

Background

1. The Applicant applied to the Tribunal for a payment order under Rule 103 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 ("the Rules") and Regulation 9 of the 2011 Regulations. The Applicant sought a sanction against the Respondent as a result of their failure to lodge timeously the Applicant's tenancy deposit with an approved tenancy deposit scheme.

2. The application was referred to a case management discussion ("CMD") to take place by teleconference on 13 August 2026. Notification of the CMD was

given to the parties in terms of Rule 17(2) of the Rules. Said notification was served upon the Respondent by Sheriff Officers on 10 July 2026.

3. Both parties were invited to make written representations in advance of the CMD. An email submission on behalf of the Respondent in response to the application was sent to the Housing and Property Chamber ("HPC") administration by email on 30 July 2026. In their response the Respondent admitted the Applicant's tenancy deposit for 'Room 203, The Combworks, Aberdeen' was not protected with an approved tenancy deposit scheme within the statutory timescale. It was stated that the tenancy had commenced on 27 September 2025 and the tenancy deposit was lodged with Safe Deposits Scotland on 24 December 2025, thus outwith the requisite statutory timescale. The Respondent's submission comprised an apology to both the Applicant and the Tribunal for what is stated as the Respondent organisation's "administrative failure" and provided an explanation regarding that failure. As a consequence of the present circumstance, it is stated the organisation reviewed its internal procedures and introduced enhanced compliance measures. It is further stated the organisation conducted a review of the wider Scottish tenancy portfolio which review concluded the present circumstance was "an isolated administrative oversight…rather than a systemic failure". The Respondent submission continued to request the tribunal considers listed factors. No further written representations were received from the parties in advance of the CMD.

4. The CMD took place on 13 August 2026. The start time was delayed in order to allow time for the parties to attend. Neither party attended the teleconference. The Tribunal considered the application papers and the submission received on behalf of the Respondent.

5. The Tribunal had the following documents before it:- (1) Form G application form dated 03 February 2026; (2) copy tenancy agreement papers regarding the Property stating the tenancy commenced on 27 September 2025 and ended on 03 January 2026; (3) evidence regarding payment of the deposit to the Respondent's managing organisation; (4) email from Safe Deposits Scotland to the Applicant; and (5) email dated 30 July 2026 on behalf of the Respondent organisation.

Relevant Law

6. The relevant law is contained within the Housing (Scotland) Act 2006 and the Tenancy Deposit Scheme (Scotland) Regulations 2011. Section 120 of the 2006 Act provides as follows:-

"120 Tenancy deposits: preliminary
(1) A tenancy deposit is a sum of money held as security for—
(a) the performance of any of the occupant's obligations arising under or in connection with a tenancy or an occupancy arrangement, or
(b) the discharge of any of the occupant's liabilities which so arise.
(2) A tenancy deposit scheme is a scheme for safeguarding tenancy deposits paid in connection with the occupation of any living accommodation.

7. The 2011 Regulations provide as follows:-

"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.
(1A) Paragraph (1) does not apply—(a) where the tenancy comes to an end by virtue of section 48 or 50 of the Private Housing (Tenancies) (Scotland) Act 2016, and (b) the full amount of the tenancy deposit received by the landlord is returned to the tenant by the landlord, within 30 working days of the beginning of the tenancy

(2) The landlord must ensure that any tenancy deposit paid in connection with a relevant tenancy is held by an approved scheme from the date it is first paid to a tenancy deposit scheme under paragraph (1)(a) until it is repaid in accordance with these Regulations following the end of the tenancy.
(3) A "relevant tenancy" for the purposes of paragraphs (1) and (2) means any tenancy or occupancy arrangement—
(a) in respect of which the landlord is a relevant person; and
(b) by virtue of which a house is occupied by an unconnected person, unless the use of the house is of a type described in section 83(6) (application for registration) of the 2004 Act.
(4) In this regulation, the expressions "relevant person" and "unconnected person" have the meanings conferred by section 83(8) of the 2004 Act."

"9—(1) A tenant who has paid a tenancy deposit may apply to the First-tier Tribunal 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 …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—
(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 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."

Findings in Fact

8. The parties entered into a tenancy agreement regarding the Applicant's occupation of student let accommodation, the Property, which commenced on 27 September 2025.

9. The tenancy is a relevant tenancy for the purpose of Regulation 3 of the 2011 Regulations.

10. On 26 September 2025 the Applicant paid a tenancy deposit of £99 to the Respondent's managing agent referred to as 'Aparto' and in relation to their student lets in Aberdeen 'Aparto – Combworks'.

11. In terms of Clauses 1.12 and 5 of the aforementioned tenancy agreement the Respondent undertook to lodge the tenant's deposit with a tenancy deposit scheme of their managing company's choice, stated to be Safe Deposits Scotland, within 30 days of the start date of the tenancy.

12. In terms of Regulation 3(a) and (b) of the 2011 Regulations the deposit should have been lodged with a scheme within 30 working days of 27 September 2025, and the relative information provided to the Applicant under Regulation 42.

13. The Applicant's deposit was paid into an approved tenancy deposit scheme, namely, Safe Deposits Scotland, on 24 December 2025.

14. The Applicant's tenancy ended on 03 January 2026.

Reasons for Decision

15. Having considered the documents before it, including the written representation by the Respondent dated 30 July 2026 in response to the application, the Tribunal considered it could make relevant findings in fact in order to make a decision on the application at the CMD, om the basis of the papers submitted, and in the absence of a hearing under Rule 18 of the Rules. The Tribunal determined that there were no substantive facts in dispute that would require a hearing to be fixed, and that proceeding to a decision would be in accordance with the Tribunal's overriding objective under Rule 2 of the Rules to avoid delay so far as compatible with proper consideration of the issues.

16. The Tribunal was satisfied that the tenancy between the parties was a relevant tenancy for the purpose of Regulation 3(3) of the 2011 Regulations. The Regulations specify clear duties, which are incumbent on landlords in relation to tenancy deposits. Regulation 3 requires a landlord to pay any deposit received in relation to a relevant tenancy to an approved tenancy deposit scheme within thirty working days of the beginning of the tenancy and provide information to the tenant regarding the deposit. The deposit must then be held by the scheme until it can be repaid in accordance with the requirements of the Regulations following the end of the tenancy.

17. In terms of Regulation 3 of the 2011 Regulations, the Respondent in this case required to pay the deposit over to a deposit scheme no later than 07 November 2025. The deposit was lodged with an approved tenancy deposit scheme, namely Safe Deposits Scotland on 24 December 2025. The Tribunal therefore found the Respondent to be in breach of Regulation 3.

18. Regulation 10 states that in the event of a failure to comply, the Tribunal must order the landlord to pay the tenant an amount not exceeding three times the

amount of the tenancy deposit. Accordingly, having been satisfied that the Respondent failed to comply, the Tribunal then had to consider what sanction to impose having regard to the particular facts and circumstances of the case. The application of the sanction must seek to act as a penalty to landlords and ensure compliance with their statutory duties in relation to tenancy deposits.

19. The Tribunal had regard to the decision of Sheriff Cruickshank in Ahmed v Russell (UTS/AP/22/0021) which provides helpful guidance on the assessment of an appropriate sanction. In doing so the Tribunal must identify the relevant factors, both aggravating and mitigating, and apply weight to same in reaching its decision. The Tribunal is then entitled to assess a fair and proportionate sanction to be anywhere between £1 and three times the sum of the deposit, which in this case is £2,850.

As per Sheriff Cruickshank at paragraph 39 of his decision in Ahmed:
"The sanction which is imposed is to mark the gravity of the breach which has occurred. The purpose of the sanction is not to compensate the tenant. The level of sanction should reflect the level of overall culpability in each case measured against the nature and extent of the breach of the 2011 Regulations."

20. The Tribunal considered the aggravating factors in this case. The failure to lodge the Applicant's deposit with an approved tenant deposit scheme is a failure on the part of the Respondent. The Respondent is responsible for ensuring they comply with their statutory obligations. The Respondent cannot deflect from those obligations. The actions or omissions of any agent when acting for their principal may impact upon that principal. That situation may have arisen in relation to this application. The business operations of their landlord's agent is of no concern to the Applicant. The Applicant's deposit was registered with an approved scheme only a week and a half before the end of the tenancy. The Applicant was without the benefit of their deposit being protected within a statutory scheme for most of their occupation of the Property under the tenancy agreement. The Respondent's failure was intimated to the Applicant by the approved tenancy deposit scheme provider when informing them their tenancy deposit had been registered. There is a strict time constraint regarding application to the First-tier Tribunal under the Tenancy Deposit Schemes (Scotland) Regulations 2011 and there was a potential risk of the Applicant's application falling to be submitted outside of that time period.

21. The Tribunal went on to consider whether there were any mitigating factors in this case. The Applicant did not attend the CMD regarding their application. The Tribunal noted from the submission on behalf of the Respondent: the breach of statutory obligation was admitted and an apology made to the Applicant and Tribunal regarding same; there was said to have been an administrative oversight by the personnel/agent carrying out the administrative role during a finance team transition, thus the breach was not deliberate; the deposit was protected albeit for a very short period; and the circumstances have brought about enhanced compliance measures in the operation of the Respondent's business following what is stated to have been an isolated

incident. The actions and/or omissions of the Respondent's agent/personnel can impact upon the Respondent as their principal. The arrangement between the Respondent and their agent/personnel is a matter for the Respondent landlord, as the principal, who is required to comply with their statutory obligations. The Respondent failed in their obligation to protect their tenant's deposit for the majority period of the tenant's tenure in the Property. The time constraint for an application regarding sanction is a matter that will be familiar to an experienced landlord and a letting or property management agent handling tenancies providing residential accommodation.

22. Accordingly, having weighed the aggravating and mitigating factors in this case the Tribunal considered that the level of culpability was mid-scale, when measured against the nature and extent of the breach. Accordingly, the Tribunal determined that a sum approximately one and half times the tenant's deposit sum paid, is a reasonable and appropriate sanction in this case, therefore a sanction of £150.

Decision

28. The Tribunal therefore made an order for payment in the sum of £150.

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.

Elaine Paton, Legal Member **13 August 2026**