



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Regulations 3 and 10 of the Tenancy  
Deposit Schemes (Scotland) Regulations 2011**

**Chamber Ref: FTS/HPC/PR/24/1205**

**Re: Property at Flat 2/1, 63 Glencoe Street, Anniesland, Glasgow, G13 1YW (“the  
Property”)**

**Parties:**

**Miss Anna Whitelaw, Middlemuir House, 7 Douglas Avenue, Lenzie, G66 4NT  
 (“the Applicant”)**

**Miss Aimee Buchanan, 7 Gartness Road, Killearn, Glasgow, G63 9NT (“the  
Respondent”)**

**Tribunal Members:**

**Alison Kelly (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that an order for payment should be made.**

1. The Applicant lodged an application on 12<sup>th</sup> March 2024 under Rule 103 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) seeking a sum under the Tenancy Deposit (Scotland) Regulations 2011 (“the Regulations”).
2. Lodged with the application were :
  - a. Tenancy Agreement
  - b. Email confirming the end date of the tenancy
3. The papers were served on the Respondent by Sheriff Officers on 14<sup>th</sup> June 2024.

4. On 3rd July 2024 the Tribunal received an email from the Respondent containing a Written Submission, which confirmed that the information contained in regulation 42 of the Regulations, which she was required to provide to the Applicant in terms of Rule 3(b) of the Regulations had not been provided to the Applicant. She went on to outline difficulties during the tenancy and lodged a copy of the Adjudication Outcome (DAN811553) from Safe Deposits Scotland in relation to the tenancy deposit.
5. On 9<sup>th</sup> July 2024 the Applicant sent an email to the Tribunal with a Written Submission outlining her position.

### **Case Management Discussion**

6. The Case Management Discussion (“CMD”) took place by teleconference. The Applicant represented herself. The Respondent also represented herself.
7. The Chairperson explained to the parties the purpose of a CMD in terms of Rule 17.
8. The Chairperson ascertained that the parties agreed that the tenancy began on 1<sup>st</sup> August 2023 and ended on 31<sup>st</sup> December 2023, the Applicant paid a deposit of £2190, the deposit was placed in a scheme with Safe Deposits Scotland and that an adjudication by Safe Deposits Scotland was undertaken before part of the deposit was returned to the Applicant and the remainder paid to the Respondent.
9. The Applicant had been a joint tenant with her ex-partner and the relationship ended during the tenancy with the Applicant having to move out. She had paid the deposit in full from her own funds and her ex-partner was not involved in the adjudication process.
10. The Applicant made the application because she had not received the information contained in regulation 42 of the Regulations, which the Applicant was required to provide her with in terms of Rule 3(b) of the Regulations. She felt that she had suffered stress and inconvenience through not receiving the information as she did not know the process for reclaiming the deposit at the end of the tenancy. She did not know that her ex-partner was the lead tenant, and she did not know that he could have claimed the deposit from Safe Deposits Scotland. She did receive an email from Safe Deposits Scotland on 13<sup>th</sup> September 2023 confirming that they had received the deposit and advising her to activate her account.
11. The Applicant thought that it should have been explained to her that her ex-partner was the lead tenant and was therefore able to reclaim the deposit, and that, as the deposit had been paid solely by her he should not have been the

lead tenant. She did concede that she had signed the tenancy agreement, and that Clause 11 of the tenancy agreement gave clear information about joint tenancies, who is identified as the lead tenant, and what their positions in relation to the deposit.

12. The Respondent accepted that she had not provided the required information and said that it had been an oversight on her part. She had employed a letting agency. She did not seek to blame them and said that she had made sure she had sent the required information to her current tenant. She said that she had worked with the applicant to make sure that the Applicant's ex-partner did not have any of the deposit returned to him.

### **Findings In Fact**

- i. The parties and the Applicant's ex-partner entered in to a tenancy agreement for the property commencing on 1<sup>st</sup> August 2023;
- ii. The Applicant paid a deposit of £2190 to the Respondent;
- iii. The tenancy came to an end on 31<sup>st</sup> December 2023;
- iv. The Respondent placed the deposit in to a scheme with Safe Deposits Scotland;
- v. The Applicant received an email from Safe Deposits Scotland confirming that the deposit had been lodged;
- vi. The Respondent did not send the Applicant the information required by Regulation 3 in terms of Regulation 42.

### **Reasons For Decision**

13. The Application has been brought under the Tenancy Deposit (Scotland) Regulations 2011, based on an alleged failure of the Respondent of their duties under Regulation 3, and seeking a payment in terms of Regulation 10.

14. Regulation 3 is 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.*

*(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.*

15. Regulation 10 is as follows:

*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.*

16. Regulation 42 is as follows:

**42.—***(1) The landlord must provide the tenant with the information in paragraph (2) within the timescales specified in paragraph (3).*

*(2) The information is—*

*(a) confirmation of the amount of the tenancy deposit paid by the tenant and the date on which it was received by the landlord;*

*(b) the date on which the tenancy deposit was paid to the scheme administrator;*

*(c) the address of the property to which the tenancy deposit relates;*

*(d) a statement that the landlord is, or has applied to be, entered on the register maintained by the local authority under section 82 (registers) of the 2004 Act;*

*(e) the name and contact details of the scheme administrator of the tenancy deposit scheme to which the tenancy deposit was paid; and*

*(f) the circumstances in which all or part of the tenancy deposit may be retained at the end of the tenancy, with reference to the terms of the tenancy agreement.*

*(3) The information in paragraph (2) must be provided—*

*(a) where the tenancy deposit is paid in compliance with regulation 3(1), within the timescale set out in that regulation; or*

*(b) in any other case, within 30 working days of payment of the deposit to the tenancy deposit scheme.*

17. There was no dispute about the material facts. It was accepted by the Respondent that she had not send the Applicant the prescribed information. She described it as an oversight.

18. Regulation 3 imposes an obligation on a landlord who has received a tenancy deposit in connection with a relevant tenancy and the obligation is to place it in to an approved scheme within 30 working days of the beginning of the tenancy and to provide the required information.

19. The Tribunal has discretion in deciding what the Respondent should be ordered to pay. Serial offenders, i.e. landlords with multiple properties who do not follow the regulations are at the upper end of the scale. Landlords with only one property who have made a mistake are at the lower end of the scale. Renting out a property is a commercial decision/running a business, and there are laws and regulations in place to protect parties who enter in to tenancy agreements. These must be complied with. The reasons for the Regulations are to protect the tenant's deposit, as the money belongs to the tenant, and also to provide a fair and impartial mechanism for adjudicating on whether a deposit should be returned to a tenant, or some or all be retained by the landlord. The Tribunal has power to award a sum equivalent to up to three times the amount of the deposit. The tribunal can award any amount, from zero to the maximum amount

20. The Tribunal considers this case at the lower end of the scale. There is no suggestion that the Respondent is a serial offender. The deposit was deposited in a scheme and was therefore protected. The Respondent should have sent the information. She overlooked doing so. Most of the prescribed information was in the tenancy agreement. The Applicant did receive an email confirming the deposit had been lodged. The Tribunal considers that an award of £200 is appropriate.

### **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.**

**A Kelly**

**Legal Member/Chair**

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**Date 19<sup>th</sup> July 2024**