



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the 2011 Regulations”)

Chamber Ref: FTS/HPC/PR/24/4181

Re: Property at 22 Strathallan Road, Bridge of Allan, Stirling, FK9 4BS (“the Property”)

Parties:

Mrs Susan Driver, 50 Sledgefield Drive, Cambusbarron, Stirling, FK7 9ET (“the Applicant”)

Mr Edward Anthony, 18 Welsh Gardens, Bridge of Allan, Stirling, FK9 4QF (“the Respondent”)

Tribunal Members:

Alastair Houston (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of £850.00 be made in favour of the Applicant.

1. Background

- 1.1 This is an application under Rule 103 of the Chamber Rules whereby the Applicant sought an order for payment in respect of an alleged breach of the 2011 Regulations. The application was accompanied by a copy of the written tenancy agreement between the parties and a certificate from My Deposits Scotland.
- 1.2 The Respondent lodged written representations in advance of the Case Management Discussion. The Applicant responded to those and provided a copy of a text message exchange with My Deposits Scotland.

2. The Case Management Discussion

- 2.1 The Case Management Discussion took place on 24 March 2025 by teleconference. The parties appeared personally.
- 2.2 The Applicant confirmed that a deposit of £850.00 was paid to the Respondent on commencement of the tenancy on 1 September 2017. That deposit was not lodged with a scheme until 1 March 2023. The tenancy continued until the Applicant vacated the property on 1 September 2024. The Applicant sought an order for payment of three times the deposit given the length of time it had gone unprotected. The Applicant had received the full deposit back following the end of the tenancy.
- 2.3 The Respondent confirmed that the deposit had not been lodged within the timeframe required. It was simple oversight on his part. The deposit was lodged when the Respondent became aware of this oversight. It had been held within a bank account until then. The Applicant had not raised the issue with the deposit throughout the tenancy. This was the sole property the Respondent made available to rent and he had been renting it for around 10 years. The Respondent did not use a letting agent.

3. Reasons For Decision

- 3.1 It was not in dispute that a tenancy deposit of £850.00 had been paid by the Applicant and that this had not been lodged within a scheme within the prescribed period. Accordingly, the Tribunal considered that the application could be determined without a hearing.
- 3.2 Regulation 10 of the 2011 Regulations is in the following terms:-

*10. If satisfied that the landlord did not comply with any duty in regulation 3 the **[F1First-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 **[F1First-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.

The Tribunal was satisfied that the Respondent had not complied with the duty to pay the deposit to an approved scheme within 30 working days of the commencement of the tenancy. Accordingly, the Tribunal was required to make an order for payment in favour of the Applicant, with the only discretion available being that relating to the sum.

- 3.3 The Tribunal accepted that the deposit had not been lodged due to oversight. When the Respondent realised this, he took steps to lodge the deposit with My Deposits Scotland. The Applicant received the entire deposit back from My Deposits Scotland upon the tenancy ending. Nonetheless, the deposit had gone unprotected for around five and a half

years. The Tribunal considered that an order for payment of a sum equivalent to three times the deposit would be disproportionate and, instead, considered a sum equivalent to the deposit to be 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.

Alastair Houston

Legal Member/Chair

24 March 2025
Date