



**Decision with Statement of Reasons of 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 Procedure Regulations”) and The Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the 2011 Regulations”)**

**Chamber Ref: FTS/HPC/PR/24/4116**

**Re: Property at 56 Craigieburn Park, Aberdeen, AB15 7SG (“the Property”)**

**Parties:**

**Mr Adefolabi Adetunji, Mr Victoria Adetunji, 90 Rona Place, Aberdeen, AB16 6EJ (“the Applicant”)**

**Executors of the late Ms Rona Tayler, C/o Easthaven Property Management, 8 St Mary's Place, Aberdeen, AB16 6HL (“the Respondent”)**

**Tribunal Members:**

**Nicola Weir (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment in the sum of £325 should be made by the Respondent to the Applicant.**

**Background**

1. By application received on 4 September 2024, the Applicant applied to the Tribunal for an order for payment against the Respondent, then designed as Ms Rona Tayler, in respect of failure to carry out her duties as landlord in relation to a tenancy deposit. The failure alleged was a failure to lodge the deposit within an approved scheme within the required time limit (30 working days) in terms of the 2011 Regulations. Supporting documentation was lodged in respect of the application, including a copy of the tenancy agreement, proof of payment of the deposit of £650 by the Applicant in the form of a receipt issued by Easthaven Property Management, the Respondent's letting agent and

confirmation from Safe Deposits Scotland (“SDS”) regarding the deposit and the date it was lodged in the scheme.

2. Following initial procedure, on 1 October 2024, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.
3. On 17 February 2025, a copy of the application papers and details of the Case Management Discussion (“CMD”) to take place were served on the Respondent at care of Easthaven Property Management by Sheriff Officer. Mr Malcolm Crombie, Director of Easthaven accepted the papers on behalf of the Respondent but explained to the Sheriff Officers that the Respondent had passed away last year. Mr Crombie confirmed that they still managed her portfolio of properties on behalf of her beneficiaries.
4. On 4 March 2025, Mr Crombie wrote to the Tribunal with some written representations in response to the application. He explained that the Respondent was now deceased and that Easthaven Property Management still manage her portfolio of properties. He indicated that Easthaven admit liability in respect of the failure to lodge the deposit on time, as this had been their responsibility to deal with on behalf of the Respondent. They accept that the deposit was lodged late and have been unable to establish the reason for the delay in the deposit being lodged, as there is nothing noted on the file. Mr Crombie explained that they manage around five hundred properties and have always lodged the deposits with SDS in a timely manner. He hoped, in the circumstances, that, in view of their admission of the claim, that there will be no need for the CMD on 3 April 2025 to go ahead and that the Tribunal can make their decision on the basis of these representations.
5. A response was issued on behalf of the Tribunal to Mr Crombie on 25 March 2025, requesting a copy of the death certificate of the late Respondent and explaining the technicalities of any order under the tenancy deposit regulations having to be issued against the landlord, given that tenancy deposits are the responsibility of the landlord, even in cases where a letting agent is instructed by the landlord to deal with these matters. Neither of these communications were circulated to the Applicant as the Tribunal thought it appropriate to await further response from Mr Crombie.
6. On 1 April 2025, Mr Crombie submitted the death certificate of the late Respondent to the Tribunal. It was noted that she had died on 23 August 2024. He also advised that the late Respondent’s representative, whom Easthaven deal with, had advised that the Executor of the late Respondent is her son, who is resident in Malaysia. On 3 April 2025, Mr Crombie emailed the Tribunal again as he had not heard anything in response and did not know whether, in the circumstances, he should attend the CMD. Unfortunately, these communications were not circulated to the Legal Member of the Tribunal who was dealing with this matter until the morning of the CMD. The Legal Member instructed the Tribunal Clerk to contact Mr Crombie to request that he does attend the CMD, if possible, in order that matters can be progressed today, and

also to circulate the recent communications received to the Applicant, so that they could be made aware of the situation in advance

### **Case Management Discussion**

7. The CMD took place by telephone conference call on 3 April 2025 at 10am. The Applicant, Mr Adefolabi Adetunji and Mr Malcolm Crombie of Easthaven Property Management, on behalf of the Respondent, were in attendance.
8. After introductions and introductory remarks, the Legal Member checked with Mr Adetunji that he had received the Tribunal's very recent email and apologised to both parties present about the late circulation of this paperwork. Mr Adetunji had not seen the email before coming on to the call but checked his email and confirmed it was there. The Legal Member explained the situation to him, that his former landlord had now passed away but that Mr Crombie, on behalf of Easthaven Property Management, has admitted that the tenancy deposit was lodged late and that this was the responsibility of Easthaven. Mr Crombie confirmed this was the position and also that he had been off ill when the Tribunal's response to his first letter was received and this is why there was a slight delay in submitting the death certificate of the late Ms Tayler. Mr Adetunji stated that he was sorry to hear about the death of his former landlord but he considers that he still has a case, given that there is a legal responsibility to lodge tenancy deposits properly and that Easthaven were responsible for doing this on behalf of Ms Tayler and failed to lodge the deposit on time.
9. Mr Crombie confirmed what had been stated in his first letter and that they accept the deposit was lodged late and, unfortunately, have no explanation for this. The member of staff who administered the matter at the time has now left and there is nothing noted on the file to explain the delay in the deposit being lodged. Mr Crombie was asked about the situation regarding the estate of the late Ms Tayler. He explained that the family representative that Easthaven deals with is a long-term friend of the family but not an Executor in the estate. The late Ms Tayler has two children and it is her son who is the Executor but he is currently in Malaysia. The family representative was happy for Mr Crombie to deal with this matter on behalf of the family, as Easthaven dealt with the deposit and have accepted responsibility for paying any sanction that the Tribunal imposes. The Legal Member confirmed that she was prepared to deal with the matter at the CMD on this basis, although there would have to be further consideration as to the technicalities of making any order in the circumstances.
10. The Legal Member noted the pertinent facts, which were admitted, that the tenancy had started on 25 August 2023 and had ended on 31 August 2024; that the Applicant had paid the tenancy deposit of £650 to Easthaven on 15 August 2023 in advance of the tenancy commencing; and that the deposit had been lodged with SDS on behalf of the Respondent on 18 October 2023. It was noted that the Applicant had mentioned in their application another discrepancy, in that Easthaven appeared to have informed SDS that they received the deposit from the Applicant on 18 August 2023, whereas it had actually been

received on 15 August 2023, as per the receipt Easthaven had issued to the Applicant. The Legal Member explained that the duty of the landlord is to lodge the deposit in a scheme within 30 working days of the start date of the tenancy and that 25 August 2023 is therefore the relevant date to be used in the calculation, as opposed to the date the deposit had been received by the letting agent. According to the Legal Member's calculations (leaving out of account weekend days and bank holidays, as per the 2011 Regulations), the deposit in this case should therefore have been lodged by 6 October 2023. Thus, although the Applicant had paid the deposit to Easthaven 2 months and 3 days before it was lodged in the scheme and was therefore "unprotected" for that period as stated in the application, the period of the breach was only from 6 October 2023 until 18 October 2023, the date it was lodged in the scheme. This is a period of 12 days, or just short of two weeks which accorded with Mr Crombie's own calculations. Mr Adetunji accepted this, having now heard the basis of the calculation.

11. The Legal Member stated that it was clear that there had been a breach of the 2011 Regulations, albeit a fairly minor one, which had been admitted on behalf of the Respondent, and that it would therefore be her intention to make a finding in this regard and to impose a financial sanction, in terms of the Regulations, which would be likely, in the circumstances, to be on the lower end of the possible scale. The Legal Member requested comments from both parties on the matter of the sanction.
12. Mr Adetunji said that he was happy to leave the determination of the appropriate amount of the sanction to the Tribunal. He confirmed, however, that the situation could have been handled better by Easthaven. He felt they should have been upfront with him right at the start about the deposit having been lodged late. It was clear that Mr Adetunji had not been very happy with Easthaven's management of the tenancy in relation to repairs required and regarding the deposit. He did not think they had been at all supportive. Although they got their full deposit of £650 back from Easthaven, following the end of the tenancy, they had had to wait two months for this. Mr Adetunji said that a dispute had arisen and Easthaven wanted to retain £93.60 from the deposit for cleaning costs at the end of the tenancy. Mr Adetunji said they did not accept this and had required to go through the process with SDS, at the end of which they were found entitled to the whole deposit back.
13. Mr Crombie explained that he was aware of the dispute having arisen regarding cleaning costs but that he did not know the full facts of this or any detail regarding the repair-type issues that Mr Adetunji had mentioned. He explained that he was calling in from elsewhere as he had not expected to be involved in the CMD today and did not have access to all the office systems. He explained that he was not personally involved in administering these matters which are handled by Easthaven's staff, but should be dealt with according to set procedures. As to the late lodging of the deposit, this was admitted and he accepts there was a delay, but Mr Crombie pointed to the facts that the deposit had been lodged in a scheme and this had been done only around two weeks over the 30 working day threshold. Mr Crombie confirmed that they deal with

hundreds of deposits, they are a good business and they are not rogue agents. This is the first time they have been involved with the Tribunal.

14. Following the discussions, the Legal Member indicated that she intended to impose a sanction of £325 in respect of this breach, which is the equivalent of half of the deposit amount. There were then some further discussions concerning the logistics of Easthaven making payment to the Applicant of this amount which would avoid the necessity for a formal order against the Executors of the Respondent being made, which, as Mr Crombie had stated, would likely involve the Applicant incurring more inconvenience and delay trying to recover the sum against the deceased's estate. It was agreed that Mr Crombie would email Mr Adetunji direct, which he did whilst on the call; Mr Adetunji would then provide his bank details to Mr Crombie, who would arrange to transfer the funds as soon as possible today; Mr Crombie would email Mr Adetunji and copy in the Tribunal confirming that the transfer had been made; and Mr Adetunji confirmed he would email Mr Crombie and copy the Tribunal in to acknowledge receipt of the funds. The Legal Member indicated that she would issue a full written decision shortly, detailing the discussions which had taken place at the CMD, explaining the reasoning for the amount of the sanction imposed and confirming the settlement terms agreed between the parties. Mr Crombie and Mr Adetunji were thanked for their attendance at the CMD and the CMD concluded.
15. It was subsequently noted by the Legal Member that emails had been received by the Tribunal later that day at 3.26pm from Mr Crombie confirming that the sum of £325 had been transferred to the Applicant and, in response, from Mr Adetunji at 3.38pm confirming that the sum of £325 had been received.

## **Findings in Fact**

1. Ms Rona Tayler, the original Respondent, was the landlord of the Property but is now deceased, having died on 23 August 2024.
2. The Respondent is now the Executor(s) of the late Ms Rona Tayler's estate.
3. The Applicant was the joint tenant of the Property by virtue of a Private Residential Tenancy entered into with the original Respondent, commencing on 25 August 2023, which ended on or around 31 August 2024.
4. The Applicant paid a tenancy deposit of £650 at the outset of the tenancy, in accordance with the terms of the tenancy.
5. The deposit was paid by the Applicant to the Respondent's letting agents, Easthaven Property Management on 15 August 2023.
6. Easthaven agents lodged the deposit, on behalf of the original Respondent, in a tenancy deposit scheme with SDS on 18 October 2023, on or around 12 days' late in terms of the 2011 Regulations.

7. A dispute arose at the end of the tenancy regarding return of the full deposit to the Applicant, which dispute was decided via the tenancy deposit scheme's procedures in favour of the Applicant.
8. The Applicant subsequently received the full deposit amount back from Easthaven, in or around two months after the tenancy had ended.
9. The breach of the 2011 Regulations was admitted on behalf of the Respondent by Easthaven, who accepted responsibility for the breach and agreed to pay the sanction imposed by the Tribunal on behalf of the Respondent.
10. The Applicant was agreeable to the above arrangement.
11. The sanction determined at the CMD of £325 was paid to the Respondent by Easthaven later on the day of the CMD and this was confirmed in writing by the Applicant on the same date.

## **Reasons for Decision**

1. The application was in order and had been submitted timeously to the Tribunal in terms of Regulation 9(2) of the 2011 Regulations [as amended to bring these matters within the jurisdiction of the Tribunal], the relevant sections of which are as follows:-

*“9.—(1) A tenant who has paid a tenancy deposit may apply to the sheriff 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 by summary application and 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 sheriff—*

*(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 sheriff 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.”*

Regulation 3 [duties] referred to above, 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.”*

The Legal Member was satisfied from the documentation before her and the oral representations made at the CMD that the Respondent was under the duties outlined in Regulation 3 above and had failed to ensure that the deposit paid by the Applicant was paid into an approved tenancy deposit scheme within 30 working days of the start of the tenancy, contrary to Regulation 3 of the 2011 Regulations. This was admitted on behalf of the Respondent (now deceased), as were the pertinent facts by her letting agents who had been responsible for managing the tenancy and deposit arrangements on behalf of the Respondent and for the late lodging of the deposit. The Legal Member was therefore satisfied that the application did not require to be continued to an Evidential Hearing and that, in terms of Regulation 10 above that a sanction must be imposed on the Respondent in respect of this breach of the 2011 Regulations.

2. In determining the appropriate amount of the sanction to be imposed on the Respondent for payment to the Applicant, the Legal Member considered carefully the background circumstances and the information received from both parties on the matter. The Legal Member considered that the amount of the sanction should reflect the gravity of the breach. The Respondent had requested leniency. The Applicant stated that he was content to leave the matter of compensation to the Tribunal to determine. As the deposit here was £650, in terms of Regulation 10(a) above, the maximum possible sanction is £1,950. There is no minimum sanction stipulated in the 2011 Regulations.
3. The Legal Member considered the short duration of the breach of just under two weeks. In the circumstances, the Legal Member considered this a relatively minor breach of the 2011 Regulations. The Applicant clearly had some other issues regarding the letting agents' handling of other tenancy matters, including the return of the full deposit at the end of the tenancy. However, as had been

explained during the CMD, the Legal Member did not consider that she could take these other issues into account in determining the appropriate sanction, other than perhaps the letting agents' failure to inform the Applicant straight away regarding the late lodging of the deposit. As the deposit had been placed in a scheme on behalf of the Respondent, albeit slightly late, the Legal Member accepted that there had not been any substantial prejudice nor financial implications to the Applicant caused by the breach of the 2011 Regulations. The Applicant had been able to participate in the tenancy deposit scheme's dispute resolution procedures in order to obtain recovery of the full deposit. Although the Applicant was understandably frustrated at the two month delay in getting the deposit back, it is understood by the Legal Member that this is within normal timescales for those procedures taking place and was nothing to do with the late lodging of the deposit in the scheme. However, the Legal Member did have some sympathy for the Applicant's position that they had been inconvenienced and caused some unnecessary anxiety as a consequence of the late lodging of the deposit in a scheme. The Legal Member also had regard to the fact that the letting agents were experienced and handled around five hundred tenancies and deposits on behalf of landlords, including a portfolio of properties for this particular Respondent. The Legal Member was satisfied, however, that the late lodging of the deposit appeared to have been due to an administrative oversight and that Mr Crombie, a Director of the letting agents, had, on receipt of the Tribunal papers fully investigated how this had occurred and had taken swift steps to contact the Tribunal on behalf of the Respondent, to explain the position, accept responsibility and seek to resolve the matter as quickly as possible. Weighing all of these factors, the Legal Member determined that £325 was the appropriate amount of the sanction to be paid on behalf of the Respondent to the Applicant.

4. Given that the determined sanction had been paid before close of business on the day of the CMD, the Legal Member considered that, although appropriate to issue this formal statement of reasons Decision, there was no necessity for a formal Order to be issued against the Respondent, being the executor(s) of the deceased landlord's estate.

## **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.**

# N Weir

---

Legal Member/Chair

3 April 2025  
Date

