



**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/24/3984

Re: 17 James Street, St Andrews KY16 8YA (“the Property”)

Parties:

Fraser Love, 5 Dryburn Park, West Linton EH46 7JE (“Applicant”)

George Finlayson, 4 West Acres, St Andrews KY16 9UD (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Decision:

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent should pay to the Applicant the sum of £155.

Background

1. The Applicant made an application in Form G ("Application") dated 27 August 2024 under Rule 103 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("Rules") stating that the Respondent had failed to timeously provide to the Applicant the information required under regulation 42 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 ("2011 Regulations"). The documents produced to the Tribunal by the Applicant were: a private residential tenancy agreement ("PRT") between the Applicant and Donal MacDonald on the one part and the Respondent on the other which commenced on 1 September 2022 and copy "chat logs" which the Applicant said indicated the tenancy ended on 16 June 2024.
2. The Tribunal had sight of a sheriff officer certificate of service which stated that the Application was served on the Respondent on 18 February 2025.
3. On 6 March 2025 the Respondent lodged a written submission in which he stated that the deposit had been lodged with MyDeposits Scotland on 15 September 2022, it had been protected for the duration of the tenancy and he

had emailed a copy of the certificate to the Applicant at the start of the tenancy and now realised it had been sent to the wrong email address.

4. On 27 March 2025 the Applicant lodged a written submission.

Case Management Discussion ("CMD")

5. A CMD took place on 31 March 2025 by conference call. Both the Applicant and the Respondent were in attendance. Geraldine Finlayson was in attendance as a supporter for the Respondent.
6. The Tribunal noted that the tenancy commenced on 1 September 2022 and ended on 16 June 2024. The Parties confirmed that was agreed. The Tribunal noted that a deposit of £1550 was paid at the start of the tenancy. The Parties confirmed that was agreed.
7. The Respondent told the Tribunal that he lodged the deposit with MyDeposits Scotland ("MDS") on 15 September 2022 but when doing so provided to them an incorrect email address for the Applicant. The Tribunal noted the email address on the tenancy agreement was frl1@st-andrews.ac.uk. The Respondent said that he later realised that he had omitted the "l" from the email address. He said he emailed a copy of the deposit certificate to the wrong email address but did not receive a notification that the email had not been delivered.
8. The Respondent told the Tribunal that at the end of the tenancy he contacted the Applicant about the state of the Property and said he wanted to retain £100 from the deposit to cover cleaning costs. He said that the Applicant disputed that there was any issue with the state of the Property. The Respondent said he submitted an application to MDS to have £100 from the deposit paid to him and the balance returned to the Applicant. He said that a few weeks later the Applicant contacted him to ask about the deposit and that it was as a result of those discussions that he realised the error in the email address. He said he telephoned MDS and rectified the error.
9. The Applicant told the Tribunal that his tenancy of the Property was his first tenancy and therefore he knew little about the 2011 Regulations. He said that a couple of weeks after the tenancy ended he contacted the Respondent to ask about his deposit. He said he wanted to dispute £100 being retained for cleaning costs. He said that without the MDS reference number or the date the deposit was lodged, he could not check the position direct with MDS. He said that after a number of request for information the Respondent provided him with the information to allow him to contact MDS direct. He said that he received the balance of the deposit of £1450 around September 2024. He said he accepted

that the Respondent had made an error with the email address for the Applicant when the deposit was lodged with MDS.

10. The Tribunal expressed the view that it had sufficient information to proceed to make a decision without the need for a further Hearing. The Parties stated that they were content for the Tribunal to make a decision on the basis of the information presented.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a tenancy agreement which commenced on 1 September 2022.
2. The tenancy between the Applicant and the Respondent ended on 16 June 2024.
3. The Applicant paid to the Respondent a deposit of £1550 at the beginning of the tenancy.
4. The deposit was paid to the administrator of an approved scheme within 30 working days of the beginning of the tenancy in compliance with the 2011 Regulations.
5. The information required under regulation 42 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 was not sent to the Applicant within 30 working days of the beginning of the tenancy.
6. MyDeposits Scotland paid £1450 to the Applicant in respect of the deposit following the end of the tenancy.

Relevant Legislation

11. Regulation 3 of the 2011 Regulations provides *inter alia* :

"(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—

(b) provide the Tenant with the information required under Regulation 42."

12. Regulation 10 of the 2011 Regulations provides *inter alia* :

"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"

Reasons for the Decision

13. Regulation 10 of the 2011 Regulations states that if satisfied that the landlord did not comply with the duty in Regulation 3 to provide the tenant with the information required under Regulation 42 within 30 working days of the beginning of the tenancy, the Tribunal must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit. The Tribunal was satisfied that the Respondent did not provide the Applicant with the information required under Regulation 42 within the required timescale. This was accepted by the Respondent. The reason for this was due to an administrative error with the email address for the Applicant.
14. The amount to be awarded is a matter for the discretion of the Tribunal having regard to the factual matrix of the case before it. The Tribunal noted that the Respondent admitted that there had been a breach of the 2011 Regulations. There was no evidence before the Tribunal of repeated breaches, fraudulent intent or deliberate failure to observe responsibilities. The explanation given for the failure to comply with the 2011 Regulations was that use of an incorrect email address. The Tribunal accepted the explanation provided for the Respondent's non-compliance and was of the view that there were no aggravating factors present in this case. The Applicant had however been denied the opportunity to dispute any deduction being made from the deposit.
15. The Tribunal determined that the sanction should be £155 in the particular facts and circumstances of this case.

Decision

The Tribunal granted an Order for payment of £155 in terms of Regulation 10(a) of the 2011 Regulations.

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.

J Devine

Legal Member

Date: 31 March 2025