

**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.**

**Chamber Ref: FTS/HPC/PR/24/5856**

**Re: Property at 8 Clarebank Crescent, Edinburgh, EH6 7NJ (“the Property”)**

**Parties:**

**Mrs Sophie Baker, Mr Laine Baker, 19 Barnie Terrace, Edinburgh, EH15 1BP (“the Applicants”)**

**Miss Amanda Bleakley, Flat 27/5 Parsons Green Terrace, Edinburgh, EH8 7AF (“the Respondent”)**

**Tribunal Members:**

**Lesley Ward (Legal Member)**

**Decision (in absence of the Respondent)**

**1. The Tribunal determined that the Respondent has failed to comply with any duty of regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 and shall pay the sum of three thousand two hundred and ninety two pounds and fifty pence (£3292.50) to the Applicants.**

**Background**

2. This is an application under Regulation 9 of the Regulations and Rule 103 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (Rules) in respect of an alleged failure to protect a tenancy deposit.

3. The Tribunal had regard to the following documents lodged in advance of the Hearing:

(1) Application dated 19 December 2024 and received by the Tribunal on 23 December 2024.

(2) Private Residential Tenancy Agreement (‘PRT’) commencing 17 June 2023.

(3) Correspondence between the Parties confirming tenancy end date of 30 November 2024.

(4) Correspondence from the three deposit schemes confirming the deposit was not lodged.

### **Case Management Discussion (CMD)**

4. The case called for a CMD by conference call on 11 June 2025. The Applicants participated and represented themselves. The Respondent did not participate and was not represented. The Tribunal had sight of the execution of service by Sheriff Officers and were satisfied that the Respondent had received notification of the Case Management Discussion in terms of rule 24. The Tribunal proceeded with the CMD in terms of rule 27.

5. The Applicants explained that they approached the letting agent about the return of the deposit and were told to contact the Respondent directly. On 17 November 2024 they inquired about the mechanism for the return of the deposit. They were told by the Respondent that there was a 10 day period for inspection after the end of the tenancy and the deposit would be returned after that. They got the deposit back on 14 December 2024 after a satisfactory inspection. As far as they are aware the Respondent rents out a second property and there were previous tenants to the property that they rented.

6. The Tribunal made the following findings in fact:

- The Parties let the subjects under a PRTA commencing on 17 June 2023.
- The Applicants paid a deposit of £2195.
- When the Applicants inquired about the return of the deposit on 17 November 2024 the Respondent told them that there was a 10 day period after the end of the tenancy for an inspection to take place and it would be returned after the inspection.
- The Applicants vacated the Property on 30 November 2024.
- The deposit was returned on 14 December 2024.
- The Respondent had not protected the deposit in an approved scheme;
- The deposit had not been protected for the duration of the tenancy.
- The Respondent was an experienced landlord with other rental properties.

### **Reasons**

7. The Tribunal was satisfied that it had sufficient information to do so and the procedure was fair. It was clear that the tenancy deposit had not been protected in breach of the regulations. Having made those findings it then fell to the Tribunal to determine what sanction should be made in respect of the breaches. In so doing the Tribunal considered and referred to the case of Russell-Smith and others v Uchegbu [2016] SC EDIN 64. The Tribunal considered what was a fair, proportionate and just sanction in the circumstances of the case always having regard to the purpose of the Regulations and the gravity of the breach. The exercise by the Tribunal of its discretion

is a balancing exercise. The Tribunal weighed all the factors and found the following factors to be of significance:

- (1) The deposit was unprotected for the duration of the tenancy.
- (2) The Applicants asked about the return of the deposit and it was clear the Respondent had control of the deposit and was holding it pending a satisfactory inspection, one of the main scenarios the deposit scheme was designed to prevent.
- (3) The Respondent has rented the property to previous tenants and she rents out another property.
- (4) The deposit was returned in full.

8. In the circumstances the Tribunal did not consider the breach to be at the low end of the scale as it appeared the landlord used her possession of the deposit to her advantage at the end of the tenancy. The deposit was however returned in full. The Tribunal considered the breach to be towards the middle end of the scale and decided that one and a half times the deposit, namely the sum of £3292.50 to be fair, proportionate and just in all of the circumstances.

### **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.**

Lesley Ward

11 June 2025

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**Legal Member**

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**Date**