



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/25/1048

Re: Property at 18 Thurston Road, Hillington, G52 2JH (“the Property”)

Parties:

Miss Chantelle Myburgh, 76 Glen Esk Drive, House 15, Glasgow, G53 7QW (“the Applicant”)

Atlantis-A LTD, 20-22 Wenlock Road, London, N1 7GU (“the Respondent”)

Tribunal Members:

Gillian Buchanan (Legal Member)

Decision (in absence of the Respondent)

At the Case Management Discussion (“CMD”) which took place by telephone conference on 25 June 2025 the Applicant was in attendance. The Respondent was neither present nor represented.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that:-

Background

The Tribunal noted the following background:-

- The Respondent leased the Property to the Applicant in terms of a Private Residential Tenancy Agreement (“the PRT”) that commenced on 14 March 2024.
- The deposit payable in terms of the PRT was agreed to be £2,100 and was paid by the Applicant to the Respondent.
- The Respondent lodged the deposit in a tenancy deposit scheme late and it was only protected from 23 December 2024.

This application is made under Regulation 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 ("the Regulations").

The Case Management Discussion

In addition to the application the Tribunal had regard to the following oral submissions from the Applicant:-

- i. The Applicant vacated the property on 26 January 2025.
- ii. During the tenancy when the Property was inspected by the Respondent's representative, "Andreia", the Applicant asked for details of the deposit having been lodged in an approved scheme. The Applicant was advised that she would receive an email relative to the deposit being lodged but that email was never forthcoming.
- iii. Later in 2024 the Applicant notified the Respondent that she could not continue with the tenancy and a discussion took place about how much notice to leave required to be given. It was during that dialogue that the deposit was lodged with Safe Deposits Scotland.
- iv. The Applicant has received the deposit back in full.
- v. Whilst outwith the adjudication process of Safe Deposits Scotland the Respondent sought to offset alleged damages against the deposit which the Applicant did not accept. No such claim was lodged by the Respondent in the adjudication process.
- vi. In claiming back the deposit from Safe Deposits Scotland the Applicant also conceded some rent to be due to the Respondent. The Respondent made no claim for payment of the rent due.
- vii. The Applicant believes the Respondent rents out other properties in Scotland. Previously she had approached the Respondent about looking for a property with a bigger kitchen. She was advised by the Respondent that all their properties have a kitchen of similar size to that in the Property.

Findings in Fact

- i. The Respondent leased the Property to the Applicant in terms of the PRT that commenced on 14 March 2024.
- ii. The deposit payable in terms of the PRT was agreed to be £2,100 and was paid by the Applicant to the Respondent.
- iii. The Respondent lodged the deposit in a tenancy deposit scheme late and it was only protected from 23 December 2024.
- iv. The Applicant vacated the property on 26 January 2025.
- v. The Applicant has received the deposit back in full.
- vi. The Respondent rents out other properties in Scotland.

Reasons for Decision

The Respondent did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicant within the application papers and orally by the Applicant at the CMD was not challenged and was accepted by the Tribunal.

The Tribunal takes a landlord's failure to comply with the Regulations very seriously.

Regulation 3 of the Regulations states:-

*"(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;"*

Regulation 10 of the Regulations states:-

"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;"

The Respondent is the landlord under the PRT.

The PRT is a relevant tenancy under the Regulations.

The deposit was not timeously lodged with the scheme administrator of an approved scheme in terms of Regulation 3. A sanction is therefore payable by the Respondent to the Applicant in terms of Regulation 10.

In determining the amount payable by the Respondent to the Applicant the Tribunal took into account the following:-

- i. That the deposit was unprotected for a period in excess of 9 months.
- ii. Despite the PRT making express reference to the deposit being lodged into a named approved scheme the Respondent still failed to do so. No explanation has been provided.
- iii. The Respondent is a commercial landlord.
- iv. The Respondent was or ought to have been aware of the Regulations and the obligations arising in terms of them but failed to comply with them.
- v. That the Respondent eventually lodged the deposit in full with an approved scheme such that it was protected from 23 December 2024.
- vi. The Applicant was able to claim on the deposit at the end of the tenancy and participate in the adjudication process of the scheme administrator as appropriate.
- vii. The Applicant has fortunately suffered no financial loss as a result of the failure to lodge the deposit timeously.

In all the circumstances the Tribunal considered the Respondent's failure to pay the deposit into an approved scheme to be towards the more serious end of the scale of sanctions available to it.

The Tribunal therefore determined that, having regard to the foregoing, the Respondent must pay to the Applicant a sum of £4200 by way of a penalty for the failure to comply with the Regulations, being two times the deposit. Such a penalty is proportionate, fair and just in the circumstances.

Decision

The Respondent is ordered to pay to the Applicant a sum of £4200.

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

Ruth O'Hare

Legal Member: Gillian Buchanan

Date: 25th June 2025

Gillian Buchanan