



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/25/1229

Re: Property at 3/1 1 Johnston Street, Paisley, PA1 1XQ (“the Property”)

Parties:

Miss Boguslawa Kawczynska, 101 Hillside Road, Paisley, PA2 6UB (“the Applicant”)

Mr Abdul Waheed, Park View House, 96 Caledonia Street, Glasgow, G5 0XG (“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 £300.00 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 failure by the Respondent to comply with their obligations under the 2011 Regulations. The application was accompanied by copies of the tenancy agreement between the parties, correspondence from the deposit schemes and verification of a bank transaction showing payment of the deposit.

1.2 Both the Respondent and Applicant lodged representations in advance of the Case Management Discussion.

2. The Case Management Discussion

- 2.1 The Case Management Discussion took place on 4 August 2025 by teleconference. Both parties attended personally and were not represented.
- 2.2 The Tribunal heard firstly from the Applicant. She confirmed that a deposit of £1000.00 was paid to the Respondent in July 2021 although the tenancy did not actually commence until 1 October 2021. The deposit was not lodged with Safe Deposit Scotland until 17 November 2021. No information regarding the deposit was given by the Respondent to the Applicant. The Applicant only learned where the deposit was lodged when she received communication from Safe Deposits Scotland. The deposit was returned following the end of the tenancy on 8 January 2025 albeit around two and a half months following its end.
- 2.3 The Respondent broadly took no issue that which was said by the Respondent. The deposit was lodged six working days late. Information required by the 2011 Regulations was not provided to the Applicant. The Respondent had a number of staff working for him in respect of his properties, of which he had eight, and one of them would have lodged the deposit. At the time of commencement of the tenancy, it had been a difficult time involving contractors attempting to ready the property for the Applicant moving in and restrictions due to COVID-19.
- 2.4 Given the admission by the Respondent as to the nature of the breach, the Tribunal did not believe a hearing was necessary and determined the application based on the paperwork before it and what was said at the Case Management Discussion.

3. Findings In Fact

- 3.1 The tenancy between the parties commenced on 1 October 2021.
- 3.2 A deposit of £1000.00 was paid to the Respondent in connection with the tenancy.
- 3.3 The deposit was lodged with Safe Deposits Scotland on 17 November 2011.
- 3.4 No information regarding the lodging of the deposit was given by the Respondent to the Applicant. The Applicant learnt of its lodging with Safe Deposits Scotland after receiving an email from them at time it was lodged.
- 3.5 The tenancy between the parties ended on 8 January 2025.

4. Reasons For Decision

- 4.1 In terms of Regulation 3 of the 2011 Regulations, the Respondent was obliged to lodge the deposit with an approved third party scheme within 30 working days of the commencement of the tenancy and provide the

Applicant with the information contained within Regulation 42. The Respondent had failed to lodge the deposit within the prescribed time frame or provide the prescribed information to the Applicant.

4.2 Regulation 10(a) of the 2011 Regulations requires the Tribunal to make an order for payment in favour of the Applicant where the Respondent has breached the aforementioned duties. In that, the Tribunal has no discretion. The discretion of the Tribunal is limited to the amount the Respondent must pay which must not exceed three times the deposit taken. The Tribunal could therefore make an order for an amount up to £3000.00.

4.3 The Tribunal approached the matter of the amount by following the Upper Tribunal's reasoning in *Ahmed v Russell* 2023 S.L.T. (Tr) 33. The order for payment was a sanction upon the Respondent, not compensation for the Applicant, and ought to reflect the level of overall culpability measured against the nature and extent of the breach. In the present case, the deposit had been lodged late but only by a matter of days. The Tribunal therefore considered this to be about as minor a breach of the duty to lodge the deposit as could be conceived. The Tribunal also noted however, that none of the prescribed information had been provided to the Respondent. There was little in terms of mitigation offered by the Respondent, beyond that he was reliant on staff to assist him with management of the property. It appeared to the Tribunal that this appeared to be a straightforward case of oversight. The Tribunal selected the sum of £300.00 to be an appropriate sanction, primarily to reflect the failure to provide the Applicant with the prescribed information.

4.4 The parties had lodged representations relating to the performance of other obligations under the tenancy agreement, including repairs. The Tribunal placed no weight on these matters, given that they were not relevant to extent of the breach or culpability of the Respondent, given 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.

A. Houston

4th August 2025

Legal Member/Chair

Date