



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Regulations 9 and 10 of the tenancy Deposit Schemes (Scotland) Regulations 2011**

**Chamber Ref: FTS/HPC/PR/25/1128**

**Re: Property at Flat 3 Clydeview, 2 William Street, Helensburgh, G84 8BD (“the Property”)**

**Parties:**

**Miss Karen Willett, 12 Anchor Wynd, Clydebank, G81 1FF (“the Applicant”)**

**Parkhaven Property Ltd, Parkhaven property, Larchways West Montrose Street, Helensburgh, G84 9ND (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondent to the Applicant in the sum of £100.00.**

**Background**

1. An application was received from the Applicant on 10 March 2025 seeking a payment order under Rule 103 of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”). The Applicant sought an order for payment in respect of the Respondent’s alleged failure to lodge the tenancy deposit paid by the Applicant with an approved tenancy deposit scheme within 30 working days of the beginning of her tenancy, as required by Regulation 3 of the 2011 Regulations. The Applicant submitted a copy of a tenancy agreement, correspondence from Safe Deposits Scotland, and confirmation of the end of her tenancy in support of the application.

2. By Notice of Acceptance dated 21 March 2025 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion ("CMD") was assigned.
3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 9 June 2025.
4. By email dated 16 June 2025 the Respondent's Director, Margery Osborne, submitted written representations to the Tribunal.

### **The Case Management Discussion**

5. A CMD was held by teleconference on 30 July 2025. The Applicant attended in person. The Respondent was not represented. The Tribunal being satisfied that proper intimation of the CMD had been given to the Respondent determined to proceed in its absence.
6. Miss Willett confirmed that she had commenced a Private Residential tenancy of the property on 31 March 2022 and at that time had paid a deposit of £950.00. Miss Willett went on to say that the tenancy had ended on 31 January 2025 and that she had been advised by Safe Deposits Scotland that her deposit had not been lodged with them until 18 May 2022 and was therefore lodged outwith the required 30 working days in terms of Regulation 3 of the 2011 Regulations.
7. In response to a query from the Tribunal Miss Willett calculated that the deposit had been lodged six days late.
8. The Tribunal referred the Applicant to the Respondent's written submissions and Miss Willett explained that she had initially agreed to Safe Deposits Scotland releasing one half of her deposit to the Respondent at the end of the tenancy but that the remaining half had been disputed and had been adjudicated on by Safe Deposits and returned to her.
9. In response to a further query from the Tribunal Miss Willett accepted that as the deposit had only been lodged six days late, she was not expecting an award of three times her deposit and said she did not have a figure in mind but that any award should be fair.

### **Findings in Fact and Law**

10. The Applicant commenced a Private Residential Tenancy of the property on 31 March 2022.
11. The Applicant paid a deposit of £950.00 at the commencement of the tenancy on 31 March 2022.
12. The Applicant's deposit was lodged with Safe Deposits Scotland on 18 May 2022.

13. The Respondent was in breach of Regulation 3 of the Tenancy Deposit Scheme Regulations 2011.
14. The Applicant's tenancy ended on 31 January 2025.
15. The Applicant applied to the Tribunal for an order for payment by application dated 10 March 2025.
16. The application is timeous in terms of Regulation 9 of the 2011 Regulations.

### **Reasons for Decision**

17. Regulation 10 of the 2011 Regulations states that:  
***If satisfied that the landlord did not comply with any duty in regulation 3 the [F1First-tier Tribunal]—***  
  
***(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 [F1First-tier Tribunal] 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.***

From the documents provided by the Applicant together with her oral submissions the Tribunal was satisfied that the Respondent had failed to lodge the Applicant's deposit in an approved scheme within the statutory 30 working days period. The Tribunal also noted that this had not been disputed by the Respondent in the written representations submitted by its director Ms Osborne. The Tribunal was also satisfied that the Applicant's application had been made timeously and therefore the Tribunal must impose a financial sanction on the Respondent.

18. The amount of any award is the subject of judicial discretion after careful consideration of the circumstances of the case, as confirmed by the Inner House of the Court of Session in the case of *Tenzin v Russell* 2015 Hous. LR. 11.
19. In considering the appropriate level of payment order to be made in the circumstances, the Tribunal considered the need to proceed in a manner which is fair, proportionate and just, having regard to the seriousness of the breach (*Sheriff Welsh in Jenson v Fappiano* 2015 GWD 4-89).
20. The Tribunal noted the view expressed by Sheriff Ross in *Rollet v Mackie* ([2019] UT 45) that the level of penalty should reflect the level of culpability involved.

21. The Tribunal did not consider that any of the aggravating factors which might result in an award at the most serious end of the scale as noted by Sheriff Ross were present in this case. The Applicant's deposit was lodged about six days late and therefore for the vast majority of the tenancy the Applicant's deposit had been protected. The Applicant had been able to make use of Safe Deposits Scotland adjudication scheme to resolve the disputed part of her deposit. As far as the Tribunal was able to ascertain the Respondent had not had any other similar applications raised against it. In the circumstances having carefully considered the information before it and being satisfied it had sufficient information to allow it to make a decision without the need for a hearing the Tribunal determined that it was appropriate to impose a sanction at the lowest end of the scale and found the Respondent liable to pay the Applicant the sum of £100.00.

### **Decision**

The Tribunal finds the Applicant entitled to an order for payment by the Respondent to the Applicant in the sum of £100.00.

### **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.**

**Graham Harding  
Legal Member/Chair**

**30 July 2025  
Date**